DOCUMENT RESUME

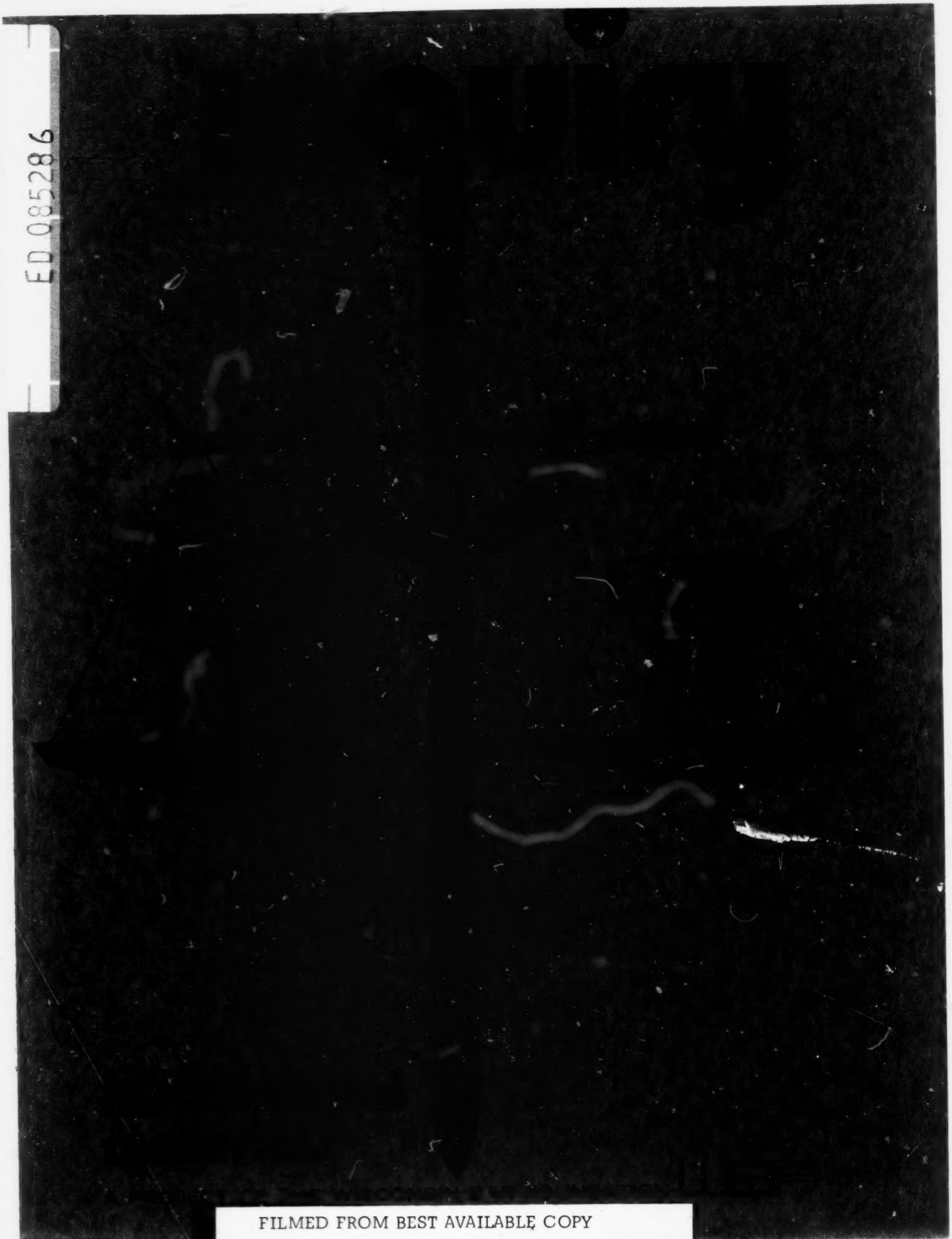
ED 085 286 SO 006 472

AUTHOR	Conklin, Gerald T., Comp.; Wilcox, Christopher J., Comp.
TITLE	Inquiry. A Project of the Wisconsin Bar Foundation.
INSTITUTION	Wisconsin Bar Foundation, Madison.
PUB DATE	Aug 71
NOTE	137p.
AVAILABLE FROM	Wisconsin Bar Foundation, 402 West Wilson Street, Madison, Wisconsin 53703 ($5.00)
EDRS PRICE	MF-$0.65 HC Not Available from EDRS.
DESCRIPTORS	Civil Rights; Consumer Education; Curriculum Guides; Ecology; Freedom of Speech; Instructional Materials; *Law Instruction; *Laws; Legal Problems; Secondary Education; Student Rights; Teaching Techniques; Units of Study (Subject Fields)

ABSTRACT

This manual consists of comprehensive outlines of instruction programs to teach high school students about the U.S. laws and legal systems. The outlines are intended to supplement earlier program materials published by the Wisconsin State Bar and are keyed to instructional units in the master schedule. The teaching approach is one of continuous interchange between instructor and student. Included in each outline are a general goal statement, activities and exercises, supplementary materials, and suggestions for outside reading. Outlines are presented on the following topics: Disruption and Free Speech; Sample Current Laws; the Student Buyer; Landlord-tenant; the City, Ecology, and the Establishment; the Student at School; the Student at Home; Bill of Rights; Jobs and Business; Cars and Legal Problems; and Selective Service Law. (Author/RM)

ED 085286



FILMED FROM BEST AVAILABLE COPY

ED 085286

PERMISSION TO REPRODUCE THIS COPYRIGHTED MATERIAL BY MICRO FICHE ONLY HAS BEEN GRANTED BY
Gordon Sinykin
TO ERIC AND ORGANIZATIONS OPERATING UNDER AGREEMENTS WITH THE NATIONAL INSTITUTE OF EDUCATION FURTHER REPRODUCTION OUTSIDE THE ERIC SYSTEM REQUIRES PERMISSION OF THE COPYRIGHT OWNER

I N Q U I R Y

A Project of
The Wisconsin Bar Foundation

Materials Compiled by

Gerald T. Conklin

and

Christopher J. Wilcox

Project Co-Chairmen

Madison

In cooperation with the American Bar Association Young Lawyers Section, the State Bar of Wisconsin, Marquette University Law School Project Outreach, University of Wisconsin Law School, and the County Bar Associations of Wisconsin

August, 1971

INSTRUCTOR'S GUIDE

-INTRODUCTION-

For a number of years attorneys in various Wisconsin communities have been conducting high school instruction programs in cooperation with local school systems. The central purpose of these programs has been to encourage confidence, respect and understanding for the laws and legal systems in this country. There has been the added hope that the programs will tend to discourage circumvention of the law, and to promote both support for the legal system and an ability to effect peaceful change where desirable. On the practical side, the programs are designed to prepare the high school student for the variety of law-related problems to which he may be exposed upon graduation, either in college or in his community.

The most recent efforts in Wisconsin included the State Bar's publication in April 1964 and April 1965 of comprehensive outlines for use in high school programs. The new outlines now being provided are intended to supplement the earlier materials, and are provided for consideration in both courses currently in effect and courses just becoming established.

There are some differences between the earlier materials and the new outlines. The new outlines are less technical and more informal than the previous editions, and they adopt an approach that veers away from teaching the law in precise detail, such as is done in the law schools, in favor of a broader outlook intended to teach high school students about their law. The outlines rely on the expertise of the lawyer-instructor to provide the more technical details of the law for which a need may arise in an individual class. There has also been added to the exact thoroughness of the earlier materials some of the new concepts and teaching techniques utilized in present school systems. Accordingly, the general approach de-emphasizes lecture in favor of continuous interchange between instructor and student. Where classes exceed 50 in size, this emphasis may have to be reversed. Specific teaching techniques found in the outlines can be expanded, supplemented or abandoned as the instructor feels is appropriate. The new outlines also include some updating of material, as well as additional topics which are of considerable relevance and vitality today.

Individual outlines are keyed to instructional units as they appear in the master Schedule. Each outline begins with a statement of general goal and includes a reference to outside source materials. Each outline also contains a surplus of material in anticipation that the interests of the class and instructor will result in editing and different emphases.

-ADMINISTRATIVE-
-SUGGESTIONS-

The attorney should be extremely flexible in proposing the program to the schools. It would be helpful first to ascertain what instruction the school is now providing in related fields in order to avoid duplication. It may be that the school already has instruction concerning consumer problems or the Bill of Rights, so that these units of instruction should be deleted. It may also be that for a variety of reasons either the school or the attorney may not want to utilize certain units of instruction, and will accordingly select from the twenty-one units provided a smaller number for a particular program.

In each case, however, it is hoped that strenuous efforts will be made to introduce some sort of program into the school. Should the school already have a similar course conducted by staff personnel, for example, it should be possible to provide attorneys for special sessions, for such techniques as moot court programs or as resource personnel.

Local school systems or teacher organizations may hesitate to sanction programs which appear to be full-scale courses to be taught only by attorneys who are not certified teachers. Experience has indicated that there are two methods of avoiding this problem. First, the program is designated as a Symposium, with the attorney characterized more as an outside resource person than as a teacher. This fits in with the practice of many schools, which welcome the use of experts as resource persons. Second, some schools have been found willing to sanction a full program taught by attorneys as long as it is done in liaison with a high school staff teacher.

It is foreseen, therefore, that in particular communities the program could take on several variations. Some examples, in order of preference, are: (1) all or a portion of the units listed in the Schedule taught by attorneys in the school during class hours, either with or without credit, such as Madison Edgewood where sixteen hours of instruction are given a small class for elective credit, Eau Claire Regis where approximately eight hours are given to large assemblies, and Eau Claire Memorial where approximately four hours are given to large assemblies; other schools may prefer half-day sessions or week-long symposiums; (2) all or a portion of the units taught by attorneys in the school during non-school hours; (3) all or a portion of the units taught by attorneys off the school premises, such as in Milwaukee where instruction is given at Marquette Law School on Saturday mornings; in other communities, the appropriate site may be the public library; (4) attorney support for and participation in any existing program which is conducted by a school staff and which appears to be well done; (5) attorney support for the

creation of a course taught by staff personnel, using our materials and suggestions and participation by local attorneys (in such cases, the state-level coordinators should be able to provide the materials necessary on request free of charge to the school). Note that if the course is for credit, some alterations from the suggested mechanics may be required by the school.

The composition of the symposium is such that it can be taught by a team of several attorneys, each taking responsibility for a particular block of instruction, or by a single attorney. The attorneys involved may want to limit the number of students in the class.

-TEACHING TECHNIQUES-

Some general teaching techniques are suggested as follows:

1. Determine in advance the background and level of ability of the class, and tailor the instruction accordingly. A surplus of material is provided so that selections can be made which will be appropriate to the particular class. It should be noted that one of the dangers discovered in similar courses experienced elsewhere is that the instructor will presuppose his students to have middle class backgrounds and values.

2. Determine in advance the manner of teaching to which the students have been accustomed, and adapt instruction methods accordingly.

3. Avoid significant repetition of instruction students have received in other school courses.

4. Use simple, readily understandable and informal language.

5. Use legal terminology only when necessary and relevant, and be sure such terminology is understood.

6. Add vitality by use of short case histories and concrete examples, selecting instances which are as colorful as possible.

7. Wherever feasible, gear instruction to facts which are relevant to the students' range of experiences.

8. Use of clippings from relevant newspaper and magazine articles and cartoons can be extremely effective. Sample clippings

are attached. It is suggested that items more topical to your area, which are both recent and of interest to students, should be used whenever possible.

9. Use of outside reading and reference materials noted at the close of each outline can be extremely effective as well. An exhaustive list of additional references, films and appropriate cases appears in The Bill of Rights, California State Department of Education, 1967, appendix, and The Bill of Rights, a Handbook, Sobul, Benziger Brothers, 1969, appendix.

10. One technique for utilizing clippings and outside materials: obtain and make known the use of a bulletin board in the school and display there relevant clippings and materials during the week preceding each class. Place single copies of more lengthy materials and books on reserve reading in the school library, giving short reading assignments in advance in the preceding class; this can also be an excellent way of exposing photographs of great impact appearing in the reference materials. Although this material need not be discussed in class, it should be noted occasionally in order to provide some incentive.

11. Outside speakers can stimulate interest; caution should be exercised to ensure acceptability to both students and the school.

12. Arrange to have blackboard and chalk available if possible; their use adds variety to session and is effective if class is not extremely large.

13. Excellent additional suggestions appear in the earlier outlines published as supplements to the April 1964 and April 1965 Wisconsin Bar Bulletin.

14. Excellent suggestions also appear in the chapter entitled "Strategies for Inquiry" in Justice in Urban America Series Teacher's Guide. The coordinators at the state level will have copies of this and selected other reference books noted at the close of each outline available to each county bar association.

INTRODUCTION TO COURSE

DISRUPTION (FREEDOM OF SPEECH)
(First Session)

I. GOAL

This session is designed to provide material which hopefully will stimulate student interest in the course in general. Items of more topical interest to students may materialize subsequent to the publication of this outline, and should be substituted; disruption could then be discussed with the later Rights and Non-Rights material.

II. INTRODUCTION TO COURSE

A. Case Situation

Refer to the attached article concerning landlord-tenant arguments occurring in the Mifflin Street area of Madison, with emphasis on the actions of the opposing sides. Pose the following kinds of questions to the class:

1. If you were a tenant, how would you react?
2. If you were the landlord, would you have done anything differently?

B. Case Situation

Refer to the attached article concerning Thomas Brown, with emphasis on his statements and those of his lawyer. Solicit reactions of the students, encourage open discussion. The discussion resulting from case situations A and B should give the instructor a good opportunity to form an initial appraisal of his class, while simultaneously providing a foundation for the development of class-instructor rapport.

C. A major goal of the law is to provide a peaceful means of settling disputes. How effective is it?

D. Purpose of this course is to examine this and other goals of the law, in an effort to evaluate the various protections, rights, duties and problems which result from the law, with particular reference to students.

III. DISRUPTION (FIRST SESSION)

A. Introduction

1. Free Speech (place phrase on blackboard if possible). It is a familiar term. But how free is "Free"? And does it apply to everyone? To high school students?

2. Free speech segment of First Amendment (set forth on blackboard if possible). This is the basis of the right to free speech. But what does it mean?

B. Free Speech at School

1. Tinker v. Des Moines, 393 U.S. 503 (1969). Students in the Des Moines school system wore black armbands to class in order to protest the Viet Nam war. The school adopted a regulation against the wearing of any armbands. The students were suspended. Eventually they brought their case to the U.S. Supreme Court.

Ask the class as a whole what kind of arguments could be made to the Supreme Court on both sides:

a. As attorney for the students
b. As attorney for the school.

What bearing has the First Amendment?

(The ruling: Court upheld the students' right to wear armbands, since there was no evidence that disruption of any sort was caused by the wearing. The Court also ruled that First Amendment rights of the high school student are not shed at the school house door. Students may express their ideas on controversial subjects as long as there results no substantial interference with the rights of others and with appropriate school discipline.)

2. Guzick v. Drebus, 431 F.2d 594 (C.A.Ohio 1970). The school district prohibited the wearing of any buttons and insignias even though as the facts developed the message of the button in question was innocuous and even though the fact developed that there had been no disruptions as a result of the buttons being worn. Other facts are that the particular school had had in the past a significant discipline problem. The facts further show that students had been threatened and that these threats had often been accompanied by violence. Tension was at the incendiary point and the prime reason that violence did not occur was the extensive efforts by school officials to avert such situations by maintaining strong discipline. One of the ways it maintained discipline was to prohibit wearing buttons, emblems or other insignia or particular dress characteristics of a particular club and group. The Court as the students may guess ruled differently than in Tinker.

3. Have the students apply their reasoning to these cases:

   a) Students carry Viet Cong flags in school corridors and cafeteria. In the classroom.

   b) Students hold protest assembly in gym without permission. Factors: During class hours; afterward (general rule: not permissible if disruptive).

   c) Students picket.
   Factors: time, place, interference with class attendance.

   d) Students prevent principal from leaving his office.

   e) Students seek to Shut It Down.

   f) Students distribute protest literature.
   (General rule: not permissible if either distribution or content is disruptive, or if littering is significant).

   g) Student raises clenched fist during taking of group class photograph.

4. Do these rules apply to private schools? Should they?
(Be prepared in case students show interest in discussing aspects of difference between public and private infringement of rights, including racial discrimination. Be sure they understand the issue of state action, and regarding public schools that education is a public function, regulated by the state and dependent upon public funds.)

Two newspaper articles have been omitted because of copyright restrictions. They are: "Law Intervenes in Bandy, Mifflin Tenants Argument,", and "Man Wrecks Plane to Avenge Dead Dog."

DISRUPTION (FREE SPEECH)
(Second Session)

I. GOAL

The purpose of this session is to broaden student awareness of the rationale behind the imposition of limitations on free speech.

II. DISRUPTION

A. Limits of Free Speech

1. Have students discuss generally whether there should be any limits on free speech in a society.

2. Specific situations:

a) City students hold rock festival, at which a major speech will be given by X(name any individual currently popular with local students; for example, in Madison: Mark Knops). Y is a group of adults against long-haired students. (Y should be named, using any group which openly opposes students; or invented, such as Students Wildly Indignant about Nearly Everything (SWINE), Al Capp's old favorite). Y attends the festival and uses bullhorns to drown out speech of X.

Should this expression of free speech by Y be permitted?

If not, can students use similar tactics at speech by Z (any establishment figure, preferably one confronted recently by disruptive students)?

If yes, when the students come into power in this country, should they be allowed to continue similar tactics against speakers they dislike?

If yes, should the present government be allowed to use similar tactics against student speakers it dislikes?

b) To attract attention, can Y hold a rally: on sidewalk outside a student's home? On his lawn? At 1:00 A.M.?

c) To attract further attention, can Y break the glass in one window of the student's home, as a symbolic gesture? Can Y bomb the house for similar reasons?

3. Factors Concerning Speeches

a) Identity of the group:
Extremist group
City Council of Churches

b) Speech content:
"Only way to solve problems is to kill students." (protected)
"When this rally is over, go inside and kill every student you find." (not protected)

c) Attendance:
Curious bystanders only
Sixty men, each the size of Dick Butkus

d) Example (have students vote on outcome)

A few years ago, a soldier wrote that he wished he had L.B.J. in his gunsights. Authorities began legal action against him, on the theory that this was not permitted free speech.

(U.S. Supreme Court Decision: Content was rhetorical in nature, presented no clear and present danger, and was therefore permissible).

4. Specific cases (supplemental material)

a) Can you burn your draft card?

Recent U.S. Supreme Court Decision: In balancing the merit in protecting the symbolic expression involved, against the importance of the draft card system, the Court ruled the procedings against draft card burners did not constitute an infringement of free speech; one reason given: there are "purer" forms of speech available.

b) Edwards v. South Carolina (1963)

On March 2, 1961, 187 high school and college students marched onto the S. Carolina capital's statehouse grounds, to protest racial discrimination. They carried placards. They were allowed to enter if they remained peaceful. For 30 to 40 minutes they marched. A crowd of 200 to 300 onlookers gathered. Feeling that among the crowd of onlookers were possible troublemakers, police ordered dispersion of students in 15 minutes. Instead, the students listened to a speech, loudly sang songs and clapped hands. They were arrested for breach of peace.

Decision:

> "[I]t is clear to us that in arresting, convicting, and punishing the petitioners under the circumstances disclosed by this record, South Carolina infringed the petitioners' constitutionally protected rights of free speech, free assembly, and freedom to petition for redress of their grievances . . . .
>
> "The circumstances in this case reflect an exercise of these basic constitutional rights in their most pristine and classic form. The petitioners felt aggrieved by laws of South Carolina which allegedly 'prohibited Negro privileges in the State.' . . . They . . . peaceably expressed their grievances 'to the citizens of South Carolina, along with the Legislative Bodies of South Carolina.' . . .
>
> "[T]hey were convicted upon evidence which showed no more than that the opinions which they were peaceably expressing were sufficiently opposed to the views of the majority of the community to attract a crowd and necessitate police protection . . . .
>
> "A function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger. Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea. That is why freedom of speech . . . is . . . protected against censorship or punishment, unless shown likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance, or unrest."

c) Adderly v. Florida (1966)

200 students marched to the county jail in Tallahassee, Fla. Standing in the jail driveway and lawn, they sang hymns, clapped and danced as a protest to the arrest earlier of other students for trying to integrate public theaters and for protesting jail segregation. Sheriff warned that they were trespassing, and must leave in 10 minutes. After 10 minutes, 107 demonstrators were arrested and charged with violation of a statute prohibiting "trespass upon the property of another, committed with a malicious and mischievous intent."

Decision: (5 to 4, affirming the conviction)

1. "In Edwards, the demonstrators went to the South Carolina State capitol grounds to protest. In this case they went to the jail. Traditionally, State capitol grounds are open to the public. Jails, built for security purposes, are not.

2. "The demonstrators at the South Carolina capitol went in through a public driveway and as they entered they were told by State officials there that they had a right as citizens to go through the Statehouse grounds as long as they were peaceful. Here the demonstrators entered the jail grounds through a driveway used only for jail purposes and without warning to or permission from the sheriff.

3. "More importantly, South Carolina sought to prosecute its State capitol demonstrators by charging them with the common-law crime of breach of the peace. This Court in Edwards took pains to point out at length the indefinite, loose, and broad nature of this charge . . . . The South Carolina breach of the peace statute was . . . so broad and all-embracing as to jeopardize speech, press, assembly and petition . . . .

"The Florida trespass statute under which these petitioners were charged cannot be challenged on this ground. It is aimed at conduct of one limited kind, that is for one person or persons to trespass upon the property of another with a malicious and mischievous intent."

Dissent:

"The First Amendment, applicable to the States by reason of the Fourteenth . . . provides that 'Congress shall make no law . . . abridging . . . the right of the people peaceably to assemble, and to petition the government for a redress of grievances.' These rights, along with religion, speech, and press, are preferred rights of the Constitution, made so by reason of that explicit guarantee. . . .

"The jailhouse, like an executive mansion, a legislative chamber, a courthouse, or the Statehouse itself . . . is one of the seats of government whether it be the Tower of London, the Bastille, or a small county jail. And when it houses political prisoners

> or those whom many think are unjustly held, it is an obvious center for protest. The right to petition for the redress of grievances has an ancient history and is not limited to writing a letter or sending a telegram to a Congressman; it is not confined to appearing before the local city council, or writing letters to the President or governor or mayor. . . . Conventional methods of petitioning may be, and often have been, shut off to large groups of our citizens. Legislators may turn deaf ears; formal complaints may be routed endlessly through a bureaucratic maze; courts may let the wheels of justice grind very slowly. Those who do not control television and radio, those who cannot afford to advertise in newspapers or circulate elaborate pamphlets may have only a more limited type of access to public officials. Their methods should not be condemned as tactics of obstruction and harassment as long as the assembly and petition are peaceable, as these were."

d) Residential picketing ban upheld by Wisconsin Supreme Court. Wauwatosa v. King, 49 Wis.2d 398 (1971)

e) Discuss differences between demonstrations on public and private property. There is a limited right to demonstrate on private property, such as a shopping center parking lot.

f) Free speech cannot be suppressed because bystanders object. Bachellar v. Maryland, 397 U.S. 564 (1970).

III. OUTSIDE READING

The Bill of Rights, a Sourcebook, Sobul, Benziger Brothers, 1970, pages 203-205, 226-229, 241-244

A Civics Casebook, Quigley, Ginn & Company, 1967, pages 18-23, 27, 32 and 35

Conflict, Politics, and Freedom, Quigley, Ginn & Company, 1968, pages 93-98

A newspaper article has been omitted here because of copyright restrictions. It is, "Protest Scuffle."

An article has been omitted here because of copyright restrictions. It is "Citizen-Soldiers Meet Turnabout Challenge."

An article by Patricia Simms has been omitted here because of copyright restrictions. It is, "Police Photography Ban Denied."

SAMPLE CURRENT LAWS

(First Session)

I. GOAL

This class is designed to expose the class to the maximum number of laws which could possibly be relevant to them, while at the same time preventing the class from developing into a dull lecture session. The students should develop an awareness for exactly what is prohibited, and the ramifications of engaging in the prohibited acts. They should also be exposed to the fact that these laws are constantly changing, and will continue to be changed in the future.

II. SAMPLE CURRENT LAWS

The best means of exposing a maximum number of relevant laws to the class would seem to be the handout method. A list of the laws in question form, a sample of which is attached, could be distributed to each student at the close of the preceding session. In the present session the instructor would then encourage the students to ask any questions they may have concerning the list. The instructor may refer to the statutory references in the attached answer sheet. Interests could be heightened by asking the students to detect which of the situations is not clearly prohibited by law (no. 4 on the attached sample, with the statute being unclear; similar laws in several other states have been interpreted to include passive resistance as prohibited by the law). Nos. 8, 11 and 13 on the attached sample would seem particularly conducive to good class discussion. Also of interest to the students should be no. 16; this could be supplemented by referring to Wis. Stats. 946.41, which could cover the situation of intimidation or baiting of policemen. Student interest can be increased by three additional techniques: 1) place on the blackboard the monetary and jail penalties in brief form relating to those laws of particular interest to them; 2) bring to the class volume 2 of the Statutes, give the class an opportunity to see some of the relevant laws in print, and to experience the size and weight of the volume; 3) the instructor should peruse the current list of bills pending before the legislature, and mention those to the class which would affect any of the laws in question, as a means of illustrating that the law does not remain static but is constantly changing, and that there is available an effective way of creating change peacefully.

III. ADDITIONAL LAWS

A. Shoplifting

Brief discussion of Wis. Stats. 943.50.

B. Drugs

The attorney should have in class either volume 1 of Wisconsin Statutes or copies of the appropriate sections dealing both with narcotic drugs and dangerous drugs. Definitions, acts prohibited and penalties should be covered. It is again suggested that the attorney refer to any bills currently pending before the legislature which would affect these laws. Attention might be called to Texas, where in 1971 marijuana penalties ranged from two years to life for simple possession and up to death for selling.

C. Laws Relating to Sexual Morality

Several of the laws included within chapter 944 of Wisconsin Statutes should be explained, such as 944.02 and 944.10. In conjunction with no. 2 on the student handout, 944.23 could be discussed.

IV. DEFENSES

Again the use of the handout attached can be an effective way of giving maximum exposure to fourteen defenses commonly understood to be acceptable. During the actual session the attorney can discuss any defense concerning which the students may have questions, using the answer sheet also attached. Defenses number 1, 8 and 10 would appear to be especially conducive to class discussion.
Instructor: Blank out right column of answers on copies to students.

V. OUTSIDE READING MATERIALS

A. Lecture Guide, High School Law Program, supplement to Wisconsin Bar Bulletin, April 1965, pages 15 and 16.

B. Handouts concerning current sample laws and defenses.

C. FBI table concerning youth arrests compared to total arrests in the United States (see attached).

STUDENTS' RIGHTS

Are any of the following acts not prohibited by law in Wisconsin?

1. Removing a road sign
2. Marking rest room walls
3. Hazing or initiating a student
4. Passive resistance, such as going limp, while being arrested
5. Hitchhiking
6. Trespassing
7. Party-crashing
8. Joining as a curious bystander a crowd which is trashing
9. Receiving or buying stolen goods
10. Writing a check without funds to cover it
11. Borrowing a car for 15 minutes without knowledge of owner
12. Failure to remain at accident scene
13. Entering a home in order to take a bottle of wine seen lying on a porch table but getting scared off before reaching the table
14. Using slugs in a vending machine
15. Congregating with others in a public street and refusing to move when ordered by police
16. Failure to aid a policeman in need
17. Giving alcoholic beverages to anyone under 18
18. Misrepresenting age to obtain alcoholic beverages
19. Possession of a switchblade knife
20. Failure to assist in fire-fighting
21. Eating at a drive-in and not paying
22. Filing a fraudulent insurance claim
23. Participating in a bomb scare
24. Dropping gum on a shopping center parking lot
25. Talking to others about taking a stereo cassette from a parked unlocked car

STUDENTS' RIGHTS

Are any of the following acts not prohibited by law in Wisconsin?

1. Removing a road sign - 941.03(1); up to $2,000 and/or 10 years if an unreasonable risk results
2. Marking rest room walls - 943.01(1); up to $200 and/or 6 months
3. Hazing or initiating a student - 941.33; up to $200 and/or 60 days
4. Passive resistance, such as going limp, while being arrested - 946.41, statute unclear; up to $500 and/or one year
5. Hitchhiking - 346.29(1); up to $20 for first offense, minimum of $2
6. Trespassing - 943.13; up to $50 or 30 days
7. Party-crashing - 943.14; up to $200 and/or 6 months
8. Joining as a curious bystander a crowd which is trashing - 947.06; up to $500 and/or one year
9. Receiving or buying stolen goods - 943.34; up to $200 and/or 6 months if item worth under $100 (if intentional)
10. Writing a check without funds to cover it - 943.24; up to $1,000 and/or one year
11. Borrowing a car for 15 minutes without knowledge of owner - 943.23; up to $1,000 and/or five years
12. Failure to remain at accident scene - 346.67; if property damage only, up to $200 and/or 6 months; if injury, up to $5,000 and/or one year
13. Entering a home in order to take a bottle of wine seen lying on a porch table but getting scared off before reaching the table - 943.10(1); up to 10 years
14. Using slugs in a vending machine - 943.22; up to $50 and/or 60 days
15. Congregating with others in a public street and refusing to move when ordered by police - 947.01: up to $200 and/or 90 days (Disorderly Conduct); 947.06(3): up to $500 and/or one year
16. Failure to aid a policeman in need - 946.40; up to $100, when requested
17. Giving alcoholic beverages to anyone under 18 - 947.15; up to $500 and/or one year
18. Misrepresenting age to obtain alcoholic beverages - 176.31; up to $100 and/or 10 days, plus suspension of driver's license
19. Possession of a switchblade knife - 941.24; up to $500 and/or one year
20. Failure to assist in fire-fighting - 941.12; up to $50 and/or 30 days, when requested
21. Eating at a drive-in and not paying - 943.21(1); up to $500 and/or 6 months
22. Filing a fraudulent insurance claim - 943.395; minimum of $100 and/or 30 days
23. Participating in a bomb scare - 947.015; up to $1,000 and/or one year
24. Dropping gum on a shopping center parking lot - 346.94(6); $50.00 each offense
25. Talking to others about taking a stereo cassette from a parked unlocked car - 939.31 regarding conspiracy, and 939.05(2)(c) regarding withdrawal

ACCEPTABILITY OF DEFENSES FOR A CRIME

Defense	Acceptability
1. Self defense	sometimes
2. Insanity	yes
3. Ignorance of laws	no
4. Ignorance or mistake as to all the facts	sometimes
5. Being a minor	no
6. Police entrapment	sometimes
7. Duress by another	sometimes
8. Selective enforcement by police	no
9. Forgiveness by victim	no
10. Intoxication	no
11. Under drug influence	sometimes
12. Religious belief resulted in the act	sometimes
13. Restitution	no
14. Alibi	sometimes

NUMBER OF ARRESTS OF YOUTHS (AGES 16-23) COMPARED TO TOTAL ARRESTS IN THE UNITED STATES

1964	Total arrests ages 16-23	Total arrests	Percentage of total arrests attributed to ages 16-23
Total	1,259,206	4,685,080	27
Criminal homicide:			
A. Murder and nonnegligent manslaughter	1,695	6,412	26
B. Manslaughter by negligence	901	2,685	34
Forcible rape	4,680	9,450	50
Robbery	19,238	39,134	49
Aggravated assault	23,126	79,895	29
Burglary—breaking, entering	81,939	187,000	44
Larceny—theft	130,218	358,569	36
Auto theft	51,879	97,356	53
Subtotal for above offenses	313,676	780,501	40
Other assaults	53,858	191,455	28
Arson	1,165	5,220	22
Forgery and counterfeiting	10,292	30,637	34
Fraud	9,098	45,998	20
Embezzlement	1,789	8,610	21
Stolen property; possessing, buying, receiving	7,175	18,152	40
Vandalism	21,989	76,814	29
Weapons: carrying, possessing, etc.	17,846	47,287	38
Prostitution and commercialized vice	10,030	28,190	36
Sex offenses (except forcible rape and prostitution)	19,253	58,082	33
Narcotic drug laws	14,447	37,802	38
Gambling	13,050	103,314	13
Offenses against family and children	11,978	57,454	21
Driving under the influence of liquor	29,934	225,672	13
Liquor laws	98,657	153,829	64
Drunkenness	151,053	1,458,821	10
Disorderly conduct	157,233	475,756	33
Vagrancy	35,312	132,955	27
All other offenses (except traffic)	176,836	510,624	35
Suspicion	44,579	102,106	44
Curfew and loitering law violations	34,230	64,784	53
Runaways	25,676	70,517	36

Source: FBI, *Uniform Crime Reports*—1964, table 19, pp. 108-109.

SAMPLE CURRENT LAWS

(Second Session)

I. GOAL

To familiarize students with the procedures resulting from a criminal arrest, with emphasis on juvenile procedures. By using the device of a specific fact situation and class participation in the procedures, it is hoped that there will result, in addition to heightened interest and variety, stronger impressions concerning consequences and ramifications of criminal arrest as well as the basics of procedure.

II. CASE SITUATION

A. Facts

Obtain volunteers to assume the following roles: (1) Student; (2) Student's attorney; (3) Criminal prosecutor; part or all of the remaining class can be used as a panel of judges.

The student attends a rock festival during the summer in your city. He finds a seemingly discarded jacket, takes it with him, and later puts it on. While walking home from the festival, he finds heroin in the jacket pocket. He decides to sell it, and is on his way to the house of a known user when he is stopped by police. The police were looking for a boy who apparently looked like him and who had been involved in disorders after the festival. In searching him, the police find the heroin, and arrest him.

B. The Arrest

Discuss with the class the following aspects of the initial arrest: (1) Student has the right to remain silent; (2) He should be given an opportunity to call his parents and an attorney; (3) If he is indigent, he should be given an opportunity to obtain a lawyer at the public's expense; (4) Ramifications of ways of exercising these rights, including belligerence, lack of cooperation and resisting arrest.

C. Procedures

The following procedures pertain roughly to those found in Dane County; local variances should be substituted where appropriate.

1. General. Juvenile student will be questioned and placed in detention. Soon afterwards the student will appear in juvenile court where written charges are placed before the judge. Initial student pleading will be asked, and decision will be made whether student must remain in detention or can be released to the custody of his parents, pending an investigation. At this point in the session, student's attorney and prosecutor can make brief arguments to the judges concerning release, and judges should respond with a decision.

2. Waiver to Adult Court. On waiver to adult court, guiding principle changes from the best interests of the juvenile to the best interests of the people. Explain briefly that generally procedures and disposition are stricter in adult court. Discuss the rationale for the difference; also that where a relatively mature juvenile commits a serious crime, the judge is likely to feel that adult court treatment is more appropriate. At this point in the class additional brief statements from the attorney and prosecutor can be given concerning waiver, with an accompanying decision from the judges.

D. Trial

Discuss the likelihood of jury trial as opposed to the more informal hearing involving statements from the juvenile, case worker, attorney, prosecutor.

1. Review of the Law. (From appropriate drug law of first session)

2. Arguments. Brief statements can be made by student, attorney, prosecutor

3. Decision. The judges should first decide whether student must be convicted under the law. Second, the judges should consider the sentence; suggested alternatives could be foster home, Wales, release to custody of parents. (This segment allows for a distinction to be drawn between the fact-finding jury and the judge.)

E. Consequences

In the light of the judges' decisions, the following consequences of criminal arrest should be discussed, using blackboard if possible.

1. Job application questionnaires often ask for arrest data.

2. Certain positions of trust require bonding, and bonds are sometimes unavailable to those with criminal records.

3. A military commission may be more difficult.

4. Civilian or military security clearances may be more difficult.

5. Entrance into some professions, such as the law profession, may be more difficult.

6. Major convictions result in loss of voting and other civil rights.

7. Some social stigma is inevitable.

8. Note differences if a student were a juvenile.

9. Inconveniences of probation, including restrictions, reporting requirements and strict supervision of conduct.

Attention might be called to Wis. Stats. 57.078 regarding restoration of civil rights for the convicted.

III. MISCELLANEOUS

If time allows, several additional areas can be covered. First, the concept and functioning of Judicare or legal aid in your area could be discussed with emphasis upon its availability to those unable to afford legal counsel. Second, the existence, usefulness and procedures of your county small claims court could be discussed. Points could include the size of the filing fee, the fact that no lawyer is necessary, the ease with which the pleadings can be prepared and filed, the purpose of joinder, and the relative speed of procedure. Sample forms for small claims proceedings could be displayed on the class bulletin board. Third, the attorney can briefly explain how an average lawsuit proceeds, from initial conference with attorney and preparation of pleadings through settlement or judgment. Fourth, the concept of the statute of limitations could be discussed, with some specific examples given.

Possibly one of the most effective techniques available to the attorney throughout the entire course is appropriate to this particular unit. Attorneys currently conducting classes of this type have had great success in bringing in old or current trial exhibits which are particularly colorful or interesting. These items, such as mock-ups, drawings and photographs, when accompanied by the anecdotes and stories certain to be related to them, can generate immense interest in the class.

IV. OUTSIDE MATERIALS

Youth and the Law, Justice in Urban America Series, Houghton Mifflin, 1970, pages 11-15, 82-85, and the photographs shown on pages 33, 42, 53, 61 and 77.

Law and the City, Justice in Urban America Series, Houghton Mifflin, 1970, pages 50-51.

An article from the Wisconsin State Journal, Tuesday, May 25, 1971 has been omitted here because of copyright restrictions. It is, "Life Sentence in New York Makes a Man Legally Dead."

An article from the Wisconsin State Journal, Monday, June 23, 1969, has been omitted here because of copyright restrictions. It is, "No Welch too Small for Court, by Richard Jaeger.

THE STUDENT BUYER

(First Session)

I. GOAL

To increase consumer acumen on the part of the students by exposure to the various techniques and devices employed by some sellers.

II. SAMPLE PROBLEM

A. Sales pitch

Adapt the following approach and devices of a hypothetical salesman into a sales pitch delivered in earnest to the class. The devices are selected from a study of the direct selling industry published in 16 UCLA Law Review 883. The pitch could be given to the class within the framework of a fact situation in order to make it more realistic.

"I'm simply taking a survey; can I come in? We are taking a survey to find what educational books are in the typical residence. You haven't a full set of reference books? You see, a set is recommended by a national educational panel, and because you don't meet their standards, you are eligible to enter our contest. (Here ask a simple question for which a correct answer is ensured.) At this point I really ought to confess that we were sure you could answer that question; on the basis of a thorough study we have made in this section of the city, we selected you specifically. You are now entitled to a free gift with our compliments (a trinket). As a matter of fact, I am not here to sell a thing; I am actually prohibited by my company from selling you anything today. Instead, my purpose is to offer you absolutely free a complete set of our encyclopedia, no strings attached. Our problem is this: This year Encyclopedia Britannica is holding a 200th year sales promotion, which is hurting us; have you seen any of their ads already? In order to compete, we need one set of our encyclopedias in each neighborhood. This city has been selected as a pilot project, and you have now been selected as this neighborhood's demonstrator, free of any cost to you for the set. Naturally, we are not doing this for nothing; we do want an evaluation letter from you annually concerning the set, and also the names of two people each year who are good prospects for buying a set. Now, once you have your free set, you will probably also be interested in keeping it current. We have available 1) supplements to the bound volume, 2) an annual year-book, and 3) our research service, whereby you can have our board of

experts prepare a paper on any topic you may submit. These are three separate services, usually sold separately but as part of this special offer, we can make them available to you at only ten cents per day. But the best part of the entire plan is this special feature which our bookkeeping department has hit upon: if you pay off the price of the three services within three years rather than the usual number of years, and increase it to four dimes a day, a great bookkeeping savings results for us. Consequently, we are willing to give you free, in addition to the free set of encyclopedias, this two-volume set of medical encyclopedias, plus a set of six children's books. Just sign right here."

B. Evaluation

Ask the class to point out the various problems they detected during the pitch. Points of discussion could include the following:

1. Introduction. Salesman will not state purpose immediately; once he gains entrance, you are trapped in your own residence until he chooses to leave.

2. Devices. Stated purpose excludes sale possibility, is for demonstration or survey only; request for referrals; pennies per day in this case equals $432.00; the deal involves an amount of items which exceeds the quantity which consumer would normally want; free gifts of little value used to create sense of debt to salesman.

III. PROBLEM AREAS

A. Magazine Sales

B. Pots and Pans Sales

C. Home Repair, such as Siding, Roofing, Paving.

These frequently use the device of quoting a low base price, with considerable add-ons for installation and other services. Work often "guaranteed." Department of Agriculture administrative rulings, chapter 110, regulate this industry.

D. Food Freezer Plans

Department of Agriculture administrative rulings, chapter 109, regulate this industry.

IV. OTHER PROBLEM AREAS

A. Special Events Sales

B. Going out of Business Sales

C. Mail Solicitation for Real Estate

D. Giveaway Promotions and Vacation Contests

V. OTHER DEVICES

A. Bait and Switch

One item advertised at very low price; upon entering store, customer is dissuaded from purchasing advertised item on the grounds that it is inferior, and is led to the more expensive items. During this class, a Madison student reported that her mother works in a local chain store which uses this device for sewing machines, with the additional technique that the clerk removes one of the working parts from the advertised machine so that it malfunctions. If the machine is sold anyway, the part is restored unknown to the buyer.

B. Loss Leaders

Note that these can be good buys, but often may no longer be available on arrival at the store.

C. Discount Pricing

Some stores may inflate the price prior to discounting. Especially dangerous where items are not marked, but all pricing is done orally by the salesmen.

D. Free Gift Worth $50.00

Worth $50.00 to whom?

E. Guarantees

Guarantee may be vague as to the subject and duration of the guarantee Note that many items are sold "as is," such as used cars. Also explain that even without written warranty, under the UCC items unfit for their general purpose can be returned for a money refund.

VI. ANTIDOTE FOR HIGH-PRESSURE SELLING

A. Ask for time to consider the sale; be prepared to resist pressure and reasoning to sign immediately; then consult an older, experienced buyer.

B. For any questions, contact the local Chamber of Commerce or the Wisconsin Department of Agriculture, Consumer Section (the current enforcement agency).

C. For home solicitation, ascertain whether a local representative is listed in the telephone directory.

VII. READING OF LABELS

For additional variety, bring to the class products having warning labels, such as snow-melting salts or insecticides, and read and discuss all aspects of the warning labels. Note that sellers are compelled by law to disclose dangerous conditions via label.

VIII. OUTSIDE MATERIALS

Law and the Consumer, Justice in Urban America Series, Houghton Mifflin, 1969, page 17, 22 and 23.

Consumer Law, High School Civic Problems Series, Law in American Society Foundation, 1969, pages 13, 14, 15, 17, 20 and 21.

Clippings of local advertisements which demonstrate the various problems discussed. Samples of the many direct-mail solicitations instructor may have recently received; real estate sales, banquet invitations and contest promotions are particularly effective.

DECEPTIVE ADVERTISING

Recent Complaints Filed by the
Federal Trade Commission

1. The Commission alleges that the vitamin C content of "Hi-C", a fruit drink, has been misrepresented by Coca-Cola through advertising which indicates that it is particularly rich in vitamin C relative to citrus fruit juices and comparable in fruit content to fresh fruits and fruit juices.

2. The Commission alleges that the "Milky Way" candy bar is misrepresented in advertisements where a glass of milk appears to be changing into a "Milky Way" candy bar, thus implying that the nutritional value of the candy bar is equivalent to that of a glass of milk.

3. The Commission alleges that Carnation "Instant Breakfast" is misrepresented in advertisements which lead the consumer to think that it is the nutritional equivalent of a breakfast of an orange or a glass of orange juice, two fresh eggs and two slices of buttered toast, failing to reveal that the nutrition derived from "Instant Breakfast" results from the nutrients in the liquid milk added to it together with those in the product itself; also that it falsely implies that bacon is a good mineral source by stating that the product supplies "as much mineral nourishment as two strips of crisp bacon."

4. The Commission alleges that Hot Wheels and Johnny Lightning racing cars made by Mattel and Topper are misrepresented as to appearance, performance and the involvement of the person playing with the toys by means of special camera, filming or sound techniques.

5. The Commission alleges that the "can stabbing" demonstration of DuPont's Zerex Anti-leak Antifreeze is misrepresented to be proof of the product's ability to stop leaks under actual operating conditions, and that DuPont also failed to reveal the possibility that its product might be harmful to cooling systems in its advertising.

6. The Commission alleges that Standard Oil, while actually using an additive similar to that of other producers, misrepresented it as "the most long-awaited gasoline development in history" in advertising that it would reduce air pollution, and also that a particular demonstration used is not proof that it actually will reduce pollution.

7. The Commission alleges in complaints against MacDonald's and Reader's Digest contests that the actual number and amount of prizes awarded was far less than what the public was led to believe and the odds misconstrued to imply that the chances of winning were much greater than they actually were. According to the MacDonald's complaint, only about $13,000 in a $500,000 sweepstakes were actually awarded.

Dear Friend:

This month Rio Rancho Estates ushers in the Spring Season with a series of gala holiday banquets.

You are invited to attend as our special guest at no cost or obligation whatsoever.

A delicious, full-course dinner will be served. Included in our entertainment plans is the screening of our latest Southwest color film "Your Golden Future" showing Rio Rancho expansion, and exploring the tremendous opportunities that exist in Albuquerque today.

Your evening should be delightful and memorable.

It is necessary that we have your reservation as soon as possible, so that we can complete seating arrangements for yourself and your spouse.

Please mail the enclosed postage-free card today. You'll be glad you did.

Sincerely Yours,

Robert Dyler

Sunshine Properties
Regional Representatives for
Rio Rancho Estates

35

AMREP Corporation
developers of
Rio Rancho Estates
Albuquerque, New Mexico
cordially invites you
to attend a
Rio Rancho Dinner Reception
and a
Private showing of our Southwest film,
"Your Golden Future"

Friday, March 12, 1971
at
Heritage House
3855 East Washington
Madison, Wisconsin
7:00 p.m.

R.S.V.P. *Informal Dress*

Free Parking

Dear Friend:

Would you mind giving us your date of birth above so that we can give you free information about our "extra cash" health insurance...extra cash that is paid directly to you when you're in the hospital? With this coverage you would have the cash to pay regular bills... cash to spend where you think best!

The enclosed postage-paid return envelope is for your convenience.

Sincerely,

Tom Gran.

Representative

RL/502a

/ Non-Phosphate Detergents

Two articles have been omitted here because of copyright restrictions. They are, "Two No-Phosphate Detergenets Seized as Toxic Compounds," and, "'Fix It' Transients Prompt a Warning."

THE STUDENT BUYER

(Second Session)

I. GOAL

To increase student awareness of the various types of contracts which are likely to affect their lives, of the ways in which they should be evaluated, and of their ramifications.

II. INTRODUCTION

Contracts should be briefly defined, and the pervasiveness of contracts should be dramatized by giving examples such as the following.

A. The Sale and Purchase of Property

1. Goods, such as hot pants and hamburgers
2. Real estate transactions, such as sales and leases

B. Sale and Purchase of Services

1. Repair work on auto or stereo equipment
2. Medical and dental work
3. Haircuts and permanents
4. John Brockington signs with the Packers

C. Sale of Insurance (auto, life, medical)

D. Additional Examples

1. Volunteer. After a heavy winter snow storm, a student shovels off the front walk of a home, then rings the bell and asks the owner to be paid. The owner is under no obligation to pay the student.

2. Unsolicited merchandise. A record club sends you unsolicited a record and a letter saying that it must be returned within two weeks or the company will bill you. This should be covered by Wis. Stats. §241.28, which indicates that the recipient may keep the item without any obligation to the record company.

3. Form contracts. Just because the student is presented with a form contract does not mean it cannot be altered. Portions of the contract can be deleted or changed, and new language can be added as long as both parties agree. An example of this type of negotiation would be the recent interchanges between Bob Dandridge and the Milwaukee Bucks.

4. Contract implied by conduct. Where a students sends his car through a car wash, the law holds that this conduct implies the student's agreement to pay.

5. Contract implied by law. Where a runaway horse is found by a man who spends money to save its life, the law will make the owner reimburse that man because it implies in fairness that the owner would have agreed to this conduct. Distinguish from normal mere volunteer concept, above.

III. EVALUATION

A. Consumer Buying

Several of the factors which should be considered in a buying transaction can be discussed as follows.

1. The presence of gimmicks, as noted in the first session, should put the buyer on guard.

2. The presence of high pressure sales tactics should also put the buyer on guard.

3. Quality should be considered. The student should be encouraged to consult with experienced friends or adults on major purchases, or to resort to such publications as Consumer Reports or Consumer Bulletin.

4. To determine the reasonableness of the price on a major purchase, students should again be encouraged to consult with experienced friends or adults and the above two publications. To determine what the price in fact is, students should be aware of the practice of add-ons, the addition of taxes, and such hidden items as service charges, installation fees and transportation expenses. In installment purchases, a federal truth-in-lending disclosure form might be displayed as one way to determine the actual price and interest rate.

B. Oral Contracts

It should be noted that only contracts of certain types need actually be in writing to be valid. The advantages of having contracts in writing could be discussed with the class; examples could be posed, such as purchasing a car, or arranging for a rock band to play at a local festival.

IV. CASH OR CREDIT

As an introduction, the terms "conditional sale," "installment sale" and "interest rate" should be defined briefly.

A. Interest Rate

It should be noted that one of the goals of the federal truth-in-lending legislation was to allow people interested in buying on credit to shop for interest rates. In investigating what rates are available for significant loans, students should be encouraged to check not only loan companies, but banks and their own life insurance companies as well. In addition, some communities maintain programs whereby those with bad credit ratings can obtain loans. The Wisconsin usury ceiling of 12% could be noted, and the instructor might also comment on the recent Wisconsin Penney's decision which rules that the 1 1/2% per month is unlawful under Wisconsin law. (This affords another opportunity to comment on the constantly changing nature of the law.)

B. Interest

To dramatize one factor in deciding between cash or credit, the following figures could be illustrated to the class, on a blackboard if possible. A man decides to take out a $20,000 loan to buy a house, at an interest rate of 8% for a term of 20 years. He would have to pay only $167.29 per month, which compares well with rental payments. However, his yearly payments would amount to $2,007.48, and at the end of the full term he will have paid $40,149.60, or over $20,000 in interest.

C. Credit Rating

The instructor may discuss the importance of establishing and maintaining a good credit rating. One inexpensive means for a student to establish a credit rating would be to charge items on accounts which offer thirty-day payment plans. By paying within thirty days, the student will not be charged interest, and will establish a record of prompt payment.

V. POTENTIAL DANGERS OF CREDIT BUYING

A. Overextension

The process of overextension can be discussed, with reference to the outside reading. The result of sickness or disability should be noted. The terms "default," "repossession" and "replevin" should be defined, with reference to the examples in the outside reading. Colorful examples from the attorney's experience concerning possible conduct by creditors would stimulate student interest greatly in this area. The instructor may also comment on ways of combating unethical pressure from creditors. Consideration should also be given to inviting a bank loan officer or loan company repossession man to address the class concerning their practices and problems.

B. Court Action

The instructor could refer to general collection procedures including summons and complaint, judgment, garnishment and wage assignment. It should be pointed out that even though the student may be judgment-proof, a judgment now would affect his credit rating, and may remain on the record to haunt him later when he begins to own significant assets. A common reaction of many debtors is, "Well, why don't you just take the TV back and we'll call it even," to which the creditor's response is likely to be, "We don't want that TV any more, so either you pay or we'll take judgment against you."

VI. CONSUMER DEFENSES

A. Fairness

Students could be asked to comment whether the courts should care whether or not a transaction is fair, as long as the technical legal aspects are valid. Reference could be made to the encyclopedia transaction indicated in the first session. The recent changes in court attitude towards consideration of fairness gives another opportunity to emphasize the changing nature of the law.

B. Breach

The term "breach" should be briefly defined, by reference to such situations as new clothes with tears or a new stereo which malfunctions. Colorful examples from the attorney's own experience would be helpful in this area. The difference between puffing and warranty could be dramatized. The availability of small claims court procedures for many of these breaches should be emphasized.

C. Cooling-off Period

The class first could be asked whether there should be one in the consumer buying field. In Wisconsin, cooling-off periods are currently restricted to the following: for frozen food transactions, three days under administrative agricultural ruling 109; and in real estate purchases, three days under regulation Z of the federal truth-in-lending. Under the proposed UCCC, three days is provided for all home solicitation purchases.

D. Minor Contracts

The significance of age in the voidability of contracts should be discussed with the students. The exceptions should be noted, as where necessities have actually been furnished, or where the minor has lied about his age. The instructor might speculate on the effect of S.B. 453 (1971) which would lower the age of majority from 21 to 18 years.

E. Disclaimer

The following could be placed upon a blackboard: "Not responsible for lost or stolen articles -- leave at your own risk." The class should be asked if in fairness this should absolve the writer of any liability.

VII. BANKRUPTCY

The concept of bankruptcy should be generally discussed, including the difference in effect upon unsecured and secured creditors, and the extent of exempt assets which will be allowed to the debtor. Attention should be called to the unavailability of discharge in certain instances, particularly where misleading financial statements have been signed by the debtor. The six-year time limitation should also be noted. Reference can in addition be made to the philosophy and practice behind chapter 13 creditor arrangements.

VIII. OUTSIDE READING

Law and the Consumer, Justice in Urban America Series, Houghton Mifflin, 1969, pages 17, 22, 23, 43-44, 59-60, 66-71, 78-82 and 92-96.

Consumer Law, High School Civic Problems Series, Law in American Society Foundation, 1969, pages 13-15, 17, 20-21 and 41-42.

LANDLORD - TENANT

I. GOAL

The purpose of this session is to increase student understanding of the various problems and responsibilities which exist for both tenants and landlords, in the contexts which the class is likely to experience.

II. DEFINITION

The following terms should be described briefly:

A. "Lease"

Some discussion as to the necessity of a written lease could follow. Note that leases for over a year must be written under Wis. Stats. 704.03. Regarding the common oral lease for month to month, note problems such as the ease of termination and uncertainty as to various responsibilities.

B. "Hold-over"

Note the results of holding over under various types of leases under Wis. Stats. 704.25.

C. Additional terms

Define such additional terms as "sublease," "lessor," "lessee" and "tenant." Security deposits might also be discussed, noting that in some cities it is common to have two months' rent involved, and that there is proposed legislation to force the landlord to pay interest on the money to the tenant.

III. CRITICAL PROVISIONS

Some of the aspects which should be clarified in lease arrangements follow. Form WB-19 could be exhibited as an example of how some form leases will handle certain of these aspects.

A. Which party pays for utilities (heat, water, gas, electricity)?
B. Which party performs maintenance (removal of snow, garbage and grass-cutting)?
C. Which party undertakes repairs, which party pays for them, and whose approval must be obtained? Under Wis. Stats 704.07, unless otherwise agreed, main responsibility is on the landlord.

D. What is the term of the lease, and how can it be terminated? Refer to Wis. Stats. 704.19. Note that most student leases will be for a twelve-month period, which increases the significance of the ability to sublet.
E. Options to increase rent and automatic renewal clauses (see Wis. Stats. 704.15)
F. Joint and several liability: where a single lease is signed by four students and three fail to pay their share, the fourth will be liable for the full amount of the rent. To avoid this result, students can ask for four separate leases.
G. Inspection by the landlord (advance notice now required under Wis. Stats. 704.05(2)).

IV. DUTIES OF THE TENANT

A. Repairs

Under Wis. Stats. 704.07(3) the tenant must repair all damage caused by negligence or improper use of the premises by the tenant. It is likely that he will also be responsible for such damage caused by his guests. He must also keep furnished plumbing, electrical wiring, machinery and equipment in working order if repair cost is minor in relation to the rent. He need not repair damage caused by normal wear and tear. Discussion of these matters could be approached from the standpoint of the landlord. What result where an apartment door is damaged but the tenant doesn't know how it occurred?

B. Conduct

Under Wis. Stats. 704.05(3) the tenant is prohibited from using the premises for any unlawful purpose or in such manner as to interfere unreasonably with use by another occupant of the same building or group of buildings. What result where student plays his stereo loudly?

C. Improvements

Under Wis. Stats. 704.05(3) and (4), no physical changes can be made by the tenant without prior consent of the landlord, and fixtures installed by the tenant can be removed only if he pays for restoration. Explain the law through concrete fact situations, such as where a student attaches a built-in stereo cabinet for $90 in his apartment. Have the class weigh the interests of both student and landlord.

V. BREACH

A. By Landlord

Discuss the legality and advisability of some of the publicized actions of tenants in the face of breach by the landlord. These would include the withholding of rental money; the payment of rental money into an escrow account or into court; contact with the local building, safety or health inspector; having the tenant correct the inadequacies and offset his rentals by any resulting costs.

B. By Tenant

Discuss such breaches from the landlord's point of view, indicating his need to protect the value of his property and meet the demands of his mortgagee and various creditors. Describe the various procedures for terminating a tenancy under Wis. Stats. 704.17, including the five-day notice and the fourteen-day notice. Note that there may be special governing provisions in a written lease. Describe briefly the procedures of unlawful detainer, including the time necessary for the procedure and the right to pay back rent prior to court date. In addition, note that the landlord has no right to a lien on the property of the tenant (Wis. Stats. 704.11). The instructor might further comment on some recently publicized actions of landlords in Wisconsin in the face of tenant breaches, including fumigation and the turning off of water or heat during the winter.

VI. SUPPLEMENTAL MATERIAL

A. Habitability

Generally there is no implied warranty of habitability concerning leased property. Prospective tenants should thoroughly inspect premises with respect to this problem.

B. Eviction

Class reaction should be solicited regarding grounds for eviction. Can a student be evicted because he has long hair? In month-to-month and week-to-week tenancies, the landlord generally can terminate for any reason. What if the reason is retaliatory? The first case to consider this, Edwards v. Habib, 397 F. 2nd 687 (1969), ruled that while the landlord may evict for any legal reason or for no reason at all, he is not free to evict in retaliation for his tenant's reporting of housing code violations to the authorities. A recent Wisconsin case has followed this holding. Can a student be evicted because he is an Indian? This would seem to be prohibited by Wis. Stats. 101.60.

C. Hardship

Have the class rule on the following situation: Student husband signs a one-year lease and the following month his wife becomes pregnant, resulting in a loss of her job three months later, so that they can no longer afford the high lease rent. In an unlawful detainer action, how should the judge rule?

VII. BUYING PROPERTY

Because of the declining percentages of young people interested in eventually purchasing residential property, this section has been de-emphasized. Discussion could be restricted to such matters as defining "offer," "closing" and "deed" and exhibiting copies. The importance of assuring that a seller has merchantable title, either through title insurance or an abstract, should be emphasized, along with the necessity of the procedure for recording deeds. If the local community building inspection department operates a program of free sale surveys, this should be pointed out. Students should also be alerted as to the significance of the manner in which title is taken, and should be encouraged to seek advice at the appropriate time.

VIII. OUTSIDE READING

Landlord and Tenant, Justice in Urban America Series, Houghton Mifflin, 1970, page 8 (photograph), 10-12, 17 (photograph), 54 (photograph), 65 (photograph), and 59-61.

THE CITY, ECOLOGY AND THE ESTABLISHMENT

SAMPLE PROBLEM

(First Session)

This class is designed to be presented solely through the device of a mock public hearing. The class has a number of goals: (1) to acquaint students with the wide ramifications of ecological problems, with particular emphasis on sharpening their awareness of the types of interests involved; (2) to demonstrate the number of reasonable positions which can be taken with respect to a single issue; (3) to illustrate a peaceful means of effecting or preventing change; (4) to dramatize the need for and advantages of state power in certain areas; (5) to give the students a practical experience in the peaceful expression and management of conflicting ideas; (6) to stimulate interest in the course by means of variety and student participation.

With respect to the mechanics of the class, the following handouts should be provided: (1) Facts of the case; (2) General rules as to procedure and the conduct and function of the presiding board; (3) The case for the particular corporation involved, including five proposed witnesses and the procedure to be followed; (4) Case for the opposition, including five proposed witnesses and the procedure to be followed; (5) Copies of the appropriate statutes.

At the close of the session preceding this class, five students each should be selected for the corporation and the opposition, with the remainder of students designated as board members. Handouts should be distributed accordingly. Students should be encouraged to assign individual roles within the three basic groups by themselves.

Before the opening of this class, the classroom should be arranged to accommodate the three separate groups. The attorney should remain in the background throughout the hearing, encouraging the board chairman to take effective charge and make any appropriate decisions as to procedure and time. The hearing is designed to take forty minutes only, in order to allow for inevitable delays and time for the board to make and explain its decision.

The fact situation involved is geared specifically to Madison-area students, and is provided basically as a sample of what can be done for this class. It is suggested that the instructor alter the subject matter to an issue which is both topical to the area involved and which is also of interest to students. As in the Madison-area case, the facts may be hypothetical, but it should be closely aligned to a real problem and actual entities in order to stimulate interest.

Suggested outside reading would include Urban Setting, High School Civic Problems Series, 1969, pages 14-16; optional reading for the student: Law and the City, Justice in Urban America Series, 1970, pages 1-25.

FACTS

Lake Monona serves an area urban population of over 250,000. It connects with several other bodies of water, including Lake Wingra which borders much of the University of Wisconsin Arboretum, wild acreage known nationally for its beauty, recreational uses, and its importance as a natural laboratory. Among other things, Lake Wingra has the area's only true cattail stands, which support tremendous varieties of wildlife.

Lake Monona is used widely for fishing, boating and swimming; the largest proportion of its shoreline is used for public parks and expensive private homes.

During the past 80 years, Lake Monona has steadily deteriorated, because of constant additions of urban and rural waste, fertilizers, chemicals and trash. Erosion and disturbance by speedboats have contributed.

Madison Gas & Electric is a power company serving the entire urban and suburban area, which is the twelfth fastest growing area in the United States. To meet the area's power needs, it must enlarge its facilities, which sit at the edge of Lake Monona.

M G & E plans to build an artificial reservoir on high ground away from the lake. Huge pumps would suck water from the lake into the reservoir, using great connecting tubes. On demand, the reservoir valves would open, and the water would flow through the generators at the plant and back into the lake, creating electricity.

The Department of Natural Resources is a Wisconsin agency empowered to holding public hearings to consider the advisability of stopping projects which may cause water pollution. It studies the proposed plan, listens to interested citizens or groups and then decides. It should also consider the things listed under "The Law."

M G & E has the support of Monona. Since the plant will be in Monona, the city will be able to get tremendous taxes from it. Also, M G & E has agreed to surround the plant with a huge public park. Most employees will come from Monona.

Madison is not so enthusiastic. The large tubes will run through part of Madison, and will be ugly if elevated, and disruptive if placed underground. Either way, the value of nearby property will go down.

Conservationists, fishermen and the University are outraged. They say the pumps will suck in and kill fish-eggs, larvae and all small aquatic life, upsetting the ecology of the lake and ending fishing. They say no screen device has been developed that could prevent this.

They also argue that water returning from the generators will be warm, which has a bad effect on fish and promotes weed growth. It will also endanger ice fishing.

A public hearing is called by the Department. Any person or group interested must present his case in the way which will most influence the decision of the Department.

GENERAL RULES

Department of Natural Resources Board

Chairman

Members

Procedure

Chairman convenes hearing. Ensures that each side takes no more than 15 minutes for presentation, and five minutes total for questions and argument.

M G & E presents first, then the opposition. Opposition questions and argues, M G & E closes with questions and arguments.

After close of hearing, Chairman presents question: should the Board enjoin (stop by court action) the proposed plan. He gets oral vote of each board member, then gives his own vote.

CASE FOR M G & E

Witnesses

Wildlife expert

Power engineer

Representative of Monona residents

Representative of Monona government

M G & E executive

Procedure

M G & E witnesses appear first. Total time allowed case for M G & E is 15 minutes. They can appear in any order, and make any appropriate statements. Examples: sites of plant and reservoir are now useless; any damage done during construction will be covered by landscapers; propose compromise if necessary; adequate screens will be developed; other ways of producing electricity are more expensive, make loud noises, pollute worse, etc.; taxes will enable new schools and parks. Each witness should start by giving his name and occupation.

After the conclusion of cases for M G & E and opposition, and at conclusion of the questions and arguments of the opposition, the M G & E Executive may question any witness for the opposition and make any final argument, for a total of 5 minutes.

Note: Considering time allowed and make-up of the Board, select your tactics carefully.

CASE FOR THE OPPOSITION

Witnesses

Wildlife expert from U. S. Department of the Interior

Power engineering expert

Representative of residents of Madison

Arboretum expert

Coordinator of all opposition groups

Procedure

After M G & E witnesses, opposition witnesses appear. Total time allowed case for opposition is 15 minutes. They can appear in any order, and make any appropriate statements. Examples: any alternatives at this site are just as bad; underground work would create erosion and upset drainage fields, causing effluent pollution; other sites would be better, such as on distant lakes; gas-turbine generators are better, can be soundproofed. Each witness should start by giving name and occupation.

After conclusion of cases for M G & E and opposition, the Coordinator for opposition may question any witness for M G & E and make any final argument, for a total of 5 minutes. Final questions and argument by M G & E will follow.

Note: Considering time allowed and make-up of the Board, select your tactics carefully.

CHAPTER 144

WATER, ICE, SEWAGE AND REFUSE

144.01 Definitions.
144.02 Sanitary survey.
144.023 Financial interest prohibited.
144.025 Department of natural resources—water resources.
144.03 Septic tank permits.
144.04 Approval of plans.
144.045 Garbage and refuse disposal.
144.05 Sewage drains; sewage discharge into certain lakes.
144.06 House connections.
144.07 Joint sewerage systems.
144.09 Enforcement.
144.10 Review of orders.
144.12 Limitation.
144.14 Degradable detergents.
144.21 Financial assistance program.
144.26 Navigable waters protection law.
144.30 Definitions.
144.31 General powers and duties.
144.32 Federal aid.
144.33 Confidentiality of records.
144.34 Inspections.
144.35 Violations; enforcement.
144.36 Air pollution control powers and duties.
144.37 Air pollution control council.
144.38 Classification and reporting.
144.39 Notice required for construction.
144.40 Emergency procedure.
144.41 Local air pollution control programs.
144.415 State aid.
144.42 Motor vehicle pollution.
144.43 Solid waste disposal standards.
144.44 License.
144.45 Research.
144.46 Shoreland and flood plain zoning.
144.536 Enforcement of orders; duty of department of justice; expenses.
144.537 Hearings; procedure, review.
144.55 Visitorial powers of department.
144.555 Report of intended new waste.
144.56 Review of orders.
144.57 Penalties.
144.76 Natural beauty council.

144.01 Definitions. The following terms as used in this chapter mean:

(1) "Waters of the state" includes those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface or ground water, natural or artificial, public or private, within the state or its jurisdiction.

(2) "Sewage," the water carried wastes created in and to be conducted away from residences, industrial establishments, and public buildings as defined in s. 101.01 of the statutes, with such surface or ground water as may be present.

(3) "Waterworks," or "water system," all structures, conduits and appurtenances by means of which water is delivered to consumers except piping and fixtures inside buildings served, and service pipes from building to street main.

(4) "Water supply," the sources and their surroundings from which water is supplied for drinking or domestic purposes.

(5) "Sewerage system," all structures, conduits and pipe lines by which sewage is collected and disposed of, except plumbing inside and in connection with buildings served, and service pipes from building to street main.

(6) "System or plant" includes water and sewerage systems and sewage and refuse disposal plants.

(7) "Refuse," all matters produced from industrial or community life, subject to decomposition, not defined as sewage.

(8) "Owner," the state, county, town, town sanitary district, city, village, metropolitan sewerage district, corporation, firm, company, institution or individual owning or operating any water supply, sewerage or water system or sewage and refuse disposal plant.

(9) "Industrial wastes" include liquid or other wastes resulting from any process of industry, manufacture, trade or business or the development of any natural resource.

(10) "Other wastes" include all other substances, except industrial wastes and sewage, as the latter term is defined in s. 144.01, which pollute any of the surface waters of the state. The term also includes "unnecessary siltation" resulting from operations such as the washing of vegetables or raw food products, gravel washing, stripping of lands for development of subdivisions, highways, quarries and gravel pits, mine drainage, cleaning of vehicles or barges or gross neglect of land erosion.

(11) "Pollution" includes contaminating or rendering unclean or impure the waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

(12) "Municipality", any city, town, village, county, county utility district, town sanitary district or metropolitan sewage district.

(13) "Nonprofit-sharing corporation", a nonstock corporation organized under ch. 181 or corresponding prior general corporation laws.

144.43 Solid waste disposal standards. The department shall, no later than January 1, 1969, prepare and adopt minimum standards for the location, design, construction, sanitation, operation and maintenance of solid waste disposal sites and facilities and shall, following a public hearing, adopt such rules relating to the operation and maintenance of solid waste disposal sites and facilities as it deems necessary.

144.44 License. (1) After the department has promulgated minimum standards for the location, design, construction, operation and maintenance of solid waste disposal sites and facilities, no person shall establish,, maintain, conduct or operate a solid waste disposal site or facility which does not adhere to such minimum standards. Such sites or facilities shall be licensed annually by the department providing they comply with said standards. The department may charge a reasonable fee for the costs of administering this section.

(2) Nothing in ss. 144.30 to 144.46 shall limit the authority of any local governing body to issue licenses and permits for any state-licensed sites or facilities or to adopt, subject to department approval, standards for the location, design, construction, operation and maintenance of solid waste disposal sites and facilities more restrictive than those adopted by the state under this section.

144.45 Research. The department may conduct or direct scientific experiments, investigations, demonstration grants and research on any matter relating to solid waste disposal, including, but not limited to, land fill, disposal and utilization of junked vehicles, and production of compost.

144.46 Shoreland and flood plain zoning. Solid waste disposal sites and facilities are prohibited within areas under the jurisdiction of shoreland and flood plain zoning regulations adopted pursuant to ss. 59.971 and 87.30, except that the department may issue permits authorizing sites and facilities in such areas.

144.536 Enforcement of orders; duty of department of justice; expenses. All orders of the department shall be enforced by the attorney general. The circuit court of Dane county or any other county where violation of such an order has occurred in whole or in part shall have jurisdiction to enforce the order by injunctional and other relief appropriate to the enforcement of the order. For purposes of such proceeding where the order prohibits in whole or in part any pollution, a violation thereof shall be deemed a public nuisance. The expenses incurred by the department of justice in assisting with the administration of ch. 144 shall be charged to the appropriation made by s. 20.370 (5).

144.537 Hearings; procedure, review. The department shall hold a public hearing relating to alleged or potential environmental pollution upon the verified complaint of 6 or more citizens filed with the department. The complaint shall state the name and address of a person within the state authorized to receive service of answer and other papers in behalf of complainants. The department may order the complainants to file security for costs in a sum deemed to be adequate but not to exceed $100 within 20 days after the service upon them of a copy of such order and all proceedings on the part of such complainants shall be stayed until security is filed. The department shall serve a copy of the complaint and notice of the hearing upon the alleged or potential polluter either personally or by registered mail directed to his last known post-office address at least 20 days prior to the time set for the hearing which shall be held not later than 90 days from the filing of the complaint. The respondent shall file his verified answer to the complaint with the department and serve a copy on the person so designated by the complainants not later than 5 days prior to the date set for the hearing, unless the time for answering is extended by the department for cause shown. For purposes of any hearing under this chapter, the secretary may issue subpoenas and administer oaths. Within 90 days after the closing of the hearing, the department shall make and file its findings of fact, conclusions of law and order, which shall be subject to review under ch. 227. If the department determines that any complaint has been filed maliciously or in bad faith it shall so find, and the person complained against shall be entitled to recover his expenses on the hearing in a civil action. Any situation, project or activity which upon continuance or implementation would cause, beyond reasonable doubt, a degree of pollution that normally would require clean-up action if it already existed, shall be considered potential environmental pollution.

144.55 Visitorial powers of department. Every owner of an industrial establishment shall furnish to the department all information required by it in the discharge of its duties under s. 144.025 (2). Any member of the natural resources board or any employe of the department may enter any industrial establishment for the purpose of collecting such information, and no owner of an industrial establishment shall

THE CITY, ECOLOGY AND THE ESTABLISHMENT

POWER OF THE CITY (STATE)

(Second Session)

I. GOAL

The goal of this class is to introduce a hypothetical situation capable of dramatizing to the students the necessity and rationale for having certain vital powers vested in local government. By this means, it is hoped that the students can extrapolate from that the values in maintaining certain state and federal powers as well.

II. THE SETTING

The concepts involved in this session need some additional vitality in order to stimulate the class. One technique would be to obtain a class consensus on the nature of an ideal community. The instructor might ask if any students had ever considered dropping out and forming a new community in an area such as Montana, Alaska or Australia. What kind of place would their ideal community be? Would the setting be urban or rural? Would it feature private homes, apartments, or communal living? Would each citizen have his own plot of land? Would automobiles be allowed? Would the platting be along the lines of conventional cities, or would it utilize the theories of Reston, Virginia (see outside reading; if that reading is unavailable to the class, the instructor might sketch roughly on the blackboard some of the theories utilized in the Reston development)?

III. SAMPLE PROBLEMS

Word gets around concerning the success of the community which the class has outlined, and the population swells to 5,000. The following problems arise.

A. Safety of Others

1. Toxic Paint. There are many children in the community, and it is noticed that hair is falling out of a number of them. There have been two unusual deaths. The problem is traced to paint chips loosening in some of the low-rent buildings. On investigation, the

community learns that in 1967, fourteen children died in Chicago alone from paint poisoning; Newsweek has reported that there are approximately 200 such deaths per year in the United States. A doctor also reports a case of spinal meningitis traced to the same buildings.

a) Alternatives

1) Expensive repairs; who should bear the cost? and how should this be enforced?

2) Condemnation of the buildings by the community; who should bear the cost?

b) Hearings. Solicit from the class the probable reaction from three groups: the community in general, the owners of the buildings, and the residents of the buildings. This can be done either informally, or by having volunteers assume specific roles.

2. Diseased Trees. Several of the area's elm trees contract elm disease. Alternatives include having the owners destroy the trees, the community destroy the trees, or, as always, doing nothing. Again, there is the question of who shall bear the expense. Again, there will be various reactions from the interest groups involved, which can be portrayed by the class.

3. Vehicles. On the assumption that there are vehicles in the community, several accidents have occurred involving slow vehicles such as tractors. Alternatives include doing nothing or forcing such vehicles to exhibit a large red triangle. Alternative question in this vein: should it be against the law to have inadequate brakes on a vehicle? Solicit student reaction, as above.

4. Dogs. Loose dogs have formed a pack which, as often happens, has turned vicious and has already attacked one child in the community. Alternatives could include various types of prohibitions against loose dogs. Here refer to any local ordinance on the subject. Solicit student reaction.

B. Personal Safety

1. Motorcycles. Should riders be forced to wear protective helmets? Here reference can be made to the several recent cases challenging such rules.

2. Vehicles. Should riders be forced to wear seat belts? Distinction can be drawn between acts endangering the safety of others and acts endangering your own safety; should government be permitted to prohibit the latter?

C. Aesthetics

1. Nuisance. Some new people move into the community who are progressive sculptors working in the medium of cement. They must make their own cement, and therefore set up a small plant for that purpose in the community. This plant makes considerable noise, and its exhaust throws out large quantities of fine white dust each day which settles throughout the community, and which may be killing vegetation gradually.

a) Alternatives

1) Require anti-pollution devices for the exhaust; who bears the expense?

2) Force the plant to re-locate outside the community; who bears the expense?

b) Hearings. Solicit reactions from the community in general, and from the owners of the plant.

2. Population. Because of the success of the community, people stream in, the population soars to 10,000 and still increases. Many of the new residents have ideas greatly different from the original founders. Should the community stop the influx by means of zoning?

3. Lawns. Many of the lawns in the community are not kept up, have no trees, and are ugly in appearance. Property values in the area are going down. Experts agree that the community has inadequate shade and oxygen, and that there is a severe erosion problem, because of lack of trees. They propose a law requiring the planting of a tree for every thousand square feet, plus they require planting of only one variety of grass, Kentucky Blue. Solicit reactions of the community, on the expense and enforcement of the law.

D. Licenses

A community restaurant begins to bring in topless and bottomless shows.

1. Alternatives.

a) Take away the liquor license.

b) Take away the non-alcoholic beverage and food-serving licenses.

c) Nothing.

2. Hearing. Solicit reactions from the community, the patrons, the owners, and the community police department. As an added factor, what if a restaurant is becoming a contact point for organized crime?

IV. WELFARE

This segment is designed to expose and consider many of the varying viewpoints towards welfare. One method of presentation would be to ask for volunteers to assume the roles and viewpoints indicated, and solicit their reactions to the various case situations.

A. Viewpoints

1. Candidate. Welfare is a huge fraud on the public; just look at the woman they found living in that plush New York hotel. It costs us millions and produces no results. The recipients in no way contribute to the economy and simply spawn larger numbers of recipients. Irresponsibility is encouraged. We must remove these parasites from the public trough and return to the principles that made our country strong, individual hard work and the capitalist system.

2. Candidate. We give welfare to the railroads, and to the corporate giants in the airline and aerospace industry. We have GI bills and middle-class housing subsidies. Through the soil bank, money is given to the farmers not to work; and we give tax loopholes to millionaires so that they pay no taxes. Why not give benefits to those who really need it?

3. Welfare Worker. The welfare system has many problems: it invades privacy because of the constant reports, its administration often intimidates recipients, it creates a terrible loss of self respect because it is given as charity, and it chokes out any incentive to work.

4. Welfare Worker. Everyone knows that welfare runs counter to all the basic prinicples of American life, and that recipients believe that welfare is their right. In fact, they prefer not to work as long as that money is available.

5. Recipient. The welfare people treat me like dirt. They are constantly checking into my life and demanding reports. They insinuate my good fortune to be on welfare, and threaten to cut off my aid if I don't follow their moral standards and way of living. I despise having to be on welfare.

6. Recipient. My husband disappeared two years ago. I have three children, the youngest of whom is three. I have never received any support from my husband, and I feel that my youngest is too young to be without her mother. The only jobs available to me would earn less than what I receive through AFDC. I am attending a local typing course and hope to get a job with an insurance company upon completion. I don't like being on AFDC, but this is the only way I can get a start.

B. Examples

1. Shapiro v. Thompson (Connecticut, 1969). A resident of another state returned with her two children to her former home in Hartford and applied for welfare. The state denied her request on the grounds that she had not lived the previous year in Connecticut. She sued the state to obtain welfare aid, arguing that the requirement had nothing to do with need and denied her freedom of travel (U.S. Supreme Court ruled the requirement unconstitutional).

2. People v. Pickett (New York, 1967). Mr. Pickett was on the welfare roles. He was referred by the state employment service to a job as a garden landscaper at $1.50 an hour. Mr. Pickett felt that the pay was insufficient, indicating that he would look for another job. He was then arrested and charged with a "willful act designed to interfere with the proper administration of public assistance...." (Decision: fraudulent intent was required under the law, so the case against Mr. Pickett was dismissed.)

3. Wilkie v. O'Connor (1941). Mr. Wilkie's old-age assistance welfare was withheld because he "insists upon his right to sleep under an old barn in a nest of rags to which he has to crawl upon his hands and knees." The welfare administration offered Mr. Wilkie "suitable living quarters" which he refused. (Decision: the position of the administration was upheld. The opinion in part stated that "plaintiff argues that he has a right to live as he pleases while being supported by public charity. One would admire his independence if he were not so dependent, but he has no right to defy the standards...of civilized society while being supported at public expense."

4. Smith v. King (Alabama, 1967). Under Alabama's "substitute father" rule, payments were denied to families when the mother was living with a man who was not her husband. Mrs. Smith challenged this rule in an Alabama federal court. (Decision: the rule was unconstitutional. The rule is designed to regulate sexual behavior of recipients, and this purpose was not reasonably related to the goals of welfare. Immorality can be punished under other state laws. The state should not punish children for the conduct of their mothers, thereby denying equal protection of the laws.)

V. OUTSIDE READING

Urban Setting, High School Civic Problems Series, Law in American Society Foundation, 1969, p. 28.

Law and the City, Justice in Urban America Series, 1970, pp. 58, 60-62, 65-66, 89 (nos. 5 and 6), 116-124.

Optional:

Conflict, Politics, and Freedom, Quigley and Longaker, Ginn & Company, 1968, pp. 30-37, 82-90.

Welfare:

Poverty and Welfare, Justice in Urban America Series, Houghton Mifflin, 1969, pp. 39-41 and 61-67.

An article by June Dieckmann has been omitted here because of copyright restrictions. It is, "Confine Dogs, Owners Warned, as Complains Rise Over Packs."

THE CITY, ECOLOGY AND THE ESTABLISHMENT

THE ESTABLISHMENT

(Third Session)

I. GOAL

The purpose of this class is to enable the student to experience first-hand the possibility of effecting meaningful change in the current system by peaceful methods. Both legislation and electoral powers should be emphasized as two means of achieving this end. The class is also designed to expose the students to the process of decision-making, as well as providing an awareness of the sources, values and management of conflicting ideas.

II. PROBLEMS IN LAW DRAFTING

An effective means of conducting this aspect of the class, both in terms of the above goal and of providing variety to stimulate the class, is to ask the students at the close of the previous class to draft a law on a given subject. The instructor is encouraged to seize upon any local problem or situation which might be conducive to the drafting of an appropriate law, and which also could be expected to stimulate student interest. Two sample handouts are attached; an additional sample problem would be the drafting of a "can ban" law concerning the sale of non-return disposable containers. A topic should be selected which will as a by-product have the students thinking in terms of involvement in local government, and which will force them to consider and deal with rational conflicting ideas in opposition.

A. Sample Drafts

Discuss the various drafts presented by the students and the problems which they raise.

B. Passage

1. Entity. What entity has the power to pass such a law?

2. Introduction. How practically does the law get introduced before the entity?

3. Techniques. The instructor should outline some of the basic techniques used in attempted legislation. He should also note any

specific examples with which he may be acquainted and which might add interest to this segment of the class.

a) Draft carefully, foresee questions and points of opposition.

b) Enlist support in advance.

c) Where a public hearing is involved, consider carefully the number and type of speakers to be presented in support of the law. Also consider what approach is likely to influence the legislative group, what is likely to disinterest them, what is likely to produce their disfavor.

d) Be prepared to continue support through long delays.

e) Be prepared to compromise for the sake of passage.

4. Current Examples. The attorney should select from current proposals pending before local or state bodies all those prospective laws which might be of interest to the student. For example, pending before the 1971 legislature have been laws prohibiting the showing of X-rated movies at outdoor theaters (AB 478), repealing the hitch-hiking law (AB 19), legalizing marijuana (AB 23), and for the newspaper publication of the names of juvenile delinquents (SB 57). Also effective is the exhibiting of one of the legislature's notices of public hearings, to illustrate the large volume of proposed laws, as well as the opportunity for persons interested to effect the passage of those laws. Again, the concept of the law as rapidly changing and responsive to the people is an important one for students to consider.

5. Drafting Criteria.

a) The law should apply generally.

b) It should be made known to those whom it affects.

c) Generally it should not be retroactive.

d) It should be clearly understandable.

e) It should not contain contradictions.

f) It should not contain impossibilities.

g) Generally it should not create great changes suddenly.

III. METHODS OF EFFECTING CHANGE

Here the instructor should discuss generally with the class the various means available to the people for instituting change. The means of new legislation will have been discussed as above. Other points of discussion could include the power of the vote, with emphasis upon the new avenues opened by the 18 year old vote. Additional discussions could center upon the device of lobbying and other means of influencing decision-making bodies, such as petitions, rallies, and demonstrations. Concrete examples of the success of some of these methods should be recited wherever possible.

IV. MANAGEMENT OF CONFLICTING IDEAS

As supplementary material, the instructor could lecture briefly on the sources and management of conflicting ideas, with emphasis on the outside reading pertaining to this segment. Reference could be made to the public hearing held earlier in the semester, which involved the management of conflicting ideas. The usefulness of having conflicting ideas on given issues can be discussed as including the fact that this tends to induce more reasoned decisions, it tends to keep the government better informed, and it tends to result in the assumption of roles of power by citizens. The importance of management of conflicting ideas can also be illustrated by pointing to the several countries which have experienced great difficulties in successfully managing diverse opinions: Belgium, Canada, Nigeria, India, and France.

V. SUPPLEMENTAL ACTIVITY

At the close of the previous class, pass out sheets containing the following proposed legislation. Have the class as a legislative body argue and pass on the bills.

A. Families should be responsible for the support of their relatives. Therefore, the state shall have the power to collect reimbursement for all monies spent in support of welfare recipients from the recipient's relatives.

B. Non-resident students at any Wisconsin educational institution shall pay tuition of $1,500 per semester.

C. Snowmobile riders shall at all times wear protective helmets.

D. Repeal of Wisconsin anti-hitchhiking law

E. The sale of all detergents containing phosphates shall be prohibited in Wisconsin.

F. To enable any person to execute a document refusing the use of artificial, extraordinary or extreme medical or surgical means to prolong his life. To provide that such document may be executed on behalf of a minor or incapacitated adult by: parent of the minor; spouse; his child age 18 or over, or, if more than one child over 18, by majority of such children (1971 SB 670).

G. Private ownership of firearms shall be prohibited in Wisconsin.

VI. OUTSIDE READING

Conflict, Politics, and Freedom, Quigley and Longaker, Ginn & Company, 1968, pages 18-22, 30-37, and 82-90.

STUDENTS' RIGHTS

Law Drafting

A group of people approach you with a request that you draft a new proposed law for them. They have heard you attended the law symposium at the high school, and therefore searched you out. They intend to introduce the law for adoption as soon as possible.

Their aim is in some way to guarantee students' rights for those attending the high school. They are concerned about a number of areas, and want to establish student involvement in decisions pertaining to them: school calendar, discipline, faculty, curriculum program, examinations, entrance requirements, curricular-related activities, and general school policy.

Bring rough handwritten draft to class. Examples of problems to worry about: the nature, size and composition of the body which will rule on these decisions; the manner in which members of the body are selected; definition of "student"; enforcement powers by the body; strikes by both teachers and students. Also: what group has the power to pass such a law; and how can it be drafted to aid its chances of passage?

STUDENTS' RIGHTS

Law Drafting

A group of people approach you with a request that you draft a new proposed law for them. They have heard you attended the law symposium at the high school, and therefore searched you out. They intend to introduce the law for adoption as soon as possible.

Their aim is in some way to ban cars from the U.W. campus. They are concerned about a number of things: increased traffic means ugly expressways, noise and congestion; safety problems; cars enable students to live throughout the city, which makes the university less of a community, results in empty dorms, and brings financial crisis to the Union through disuse; pollution. There may be other concerns which they don't express clearly.

Bring rough handwritten draft to class. Examples of problems to worry about: boundaries for the ban; hours effective; any exceptions; definition of "car"; enforcement; penalties for violation. Also: what group has the power to pass such a law; and how can it be drafted to aid its chances of passage?

THE STUDENT AT SCHOOL

I. GOAL

To introduce students to the balancing necessary between school administration rights and students' rights, through specific fact situations of interest to the students. Should there be additional matters of particular interest and timeliness at the school involved, these also should be discussed. A surplus of material is provided, to provide flexibility. Note differences where private schools are involved. Freedom of speech in the school context is generally covered in the first two sessions of the Symposium; due process is covered under Rights and Non-Rights.

II. SAMPLE PROBLEM

Obtain a volunteer from the class.

Facts: Volunteer X has a school locker, in which he keeps various items. X will probably list among these items school books, clothes and personal items, and perhaps a briefcase or book bag. X is called to the principal's office. The principal says that on the previous night staff members had made a routine search of school lockers, and had found: (a package of cigarettes, marijuana, or anything which might be appropriate to the school system in which this course is being taught). The items belong to X, but he knows that one of his friends in the locker next to his has an equal quantity of this same item which was missed in the search. X is immediately suspended, and decides to take his case to court.

Ask for volunteers to assume the following roles: (1) attorney for X; (2) attorney for the school; (3) parents of other students in the school. Have volunteers make statements, engage in arguments; poll the class for their decision at the conclusion.

Possible points of discussion: (1) Was it a lawful search? (2) Was the item in his "possession"? (3) Significance that his friend was not suspended; (4) What if, on suspicion, the school staff had found bomb or fire materials in X's locker? (5) The foregoing should increase student awareness of the existence of different rights in the school administration, in the general student body, and in the individual student. This should provide the instructor with an introduction into the problem situations which follow the Stein case.

Kansas v. Stein, 456 P.2d 1 (1969). A student was one of those suspected of having committed burglary. His school locker was searched and there was found a key to a bus depot locker containing

the stolen goods. Held: that a high school principal having control of school lockers and possessing a master list of all lock combinations and a key which would open every locker, is empowered to open and search the same for contraband upon the request of police officers. The Court stated that although a student may have control of a school locker as against fellow students, his possession is not exclusive against the school and its officials. The courts state that school officials may, and indeed have a duty to, inspect lockers under their control and prevent their use for illegal purposes.

III. SPECIFIC PROBLEMS

A. Dress Code

Ask the students if their school has a dress code, and if so how it is enforced. Solicit their reactions to it. Are there not some kinds of dress that they feel would be inappropriate? What standards would they set?

1. Hair. Breen v. Kahl, 296 F.S. 702, 419 F.2d 1034 (W.D. Wis. 1969) involved an eleventh grade high school student in the Whitewater Public School System. Breen was expelled from school because his hair length did not conform to a standard set by the School Board as follows: "hair should be washed, combed and worn so it does not hang below the collar line in the back, over the ears on the side and must be above the eyebrows. Boys should be clean-shaven; long sideburns are out." No testimony was introduced that the length of Breen's hair constituted a health problem or a physical obstruction or danger to himself or any person. Further facts developed that Breen's long hair did not cause disruption or disturbance in the high school.

Ferrell v. Dallas Independent School District, 392 F.2d 697 (1967) involved three male high school students who were refused enrollment in their schools in Dallas, Texas, because of their Beatle-type haircuts. It should be noted that this case took place back in 1966. The three boys were members of a rock combo and all had let their hair styles conform to the Beatle-cut over the summer so that they could be part of their combo in the school year as well. It was accepted as fact that the boys' Beatle haircuts conformed to the standards, customs and usage within the field of entertainment that they were engaged in and that the style of haircuts was a necessary element of their performance with the rock combo. The facts as developed by the School District showed that the long-haired boys were subject to embarrassment by their classmates. Other classmates forcibly tried to trim their hair. Obscene language was directed toward them and female students complained about the obscene language. They were frequently engaged in fights by other classmates. They felt it necessary to eat lunch with the female students.

Ask students how they think the courts ruled in the two cases. (Breen held that long hair was permissible in that case since no actual and substantial disruption or safety hazard was involved. Ferrell held that the hair length was not permissible because of the interference with effective and efficient school administration.) Note how rulings will vary with particular fact situations.

2. Clothes. Such problems as skirt length, jeans and bare feet should generally be guided by the same rationale. Generally, the school must show sufficient justification for its code; the courts have not allowed such codes for the mere sake of discipline.

B. Publications

Ask students if they have a student newspaper. If so, who runs it, what restrictions are there, and who imposes them? Do students think the particular restriction on their paper is fair and necessary?

Scoville v. Board of Education, Joliet, Illinois, 425 F.2d 10 (7th Cir. 1970). In this case a high school student was expelled from his school after writing in and aiding in the publication of an off-campus newspaper which was distributed to the faculty and students in the high school. The newpaper criticized certain administrative policies, and referred to one administrator as an individual with a "sick mind." The Court placed emphasis on the fact that the school district was unable to reasonably forecast that the student publication would cause a disruption of school activity and the educational process. The Court pointed out the importance of student criticism as a worthwhile influence in school administration. Regarding the reference to the particular administrator with the sick mind, the fact situation in this case showed a mere expression of a student feeling. In other words these remarks evidently would have to cause disruption and an interruption of the school activity.

Many commentators are in agreement that Federal Court decisions applying to student publications on the college level will apply equally to student publications on the high school level. Therefore, it is worthwhile to mention two cases involving college students. Throughout the discussion of these cases and of the previous case, the students should be feeding information into the discussion regarding their own newspaper and what it has published and any restrictions that have been placed on it.

Dickey v. Alabama State Board of Education, 273 F.Supp. 613 (D. Ala. 1967) concerned a student editor of a college newspaper who wished to publish an editorial critical of the state legislature. The state legislature had been critical of the president of the University of Alabama for his stand on permitting students to sponsor a revolutionary program. The student editor's own college president

refused to allow publication of the editorial stating as a reason that since the school was state-supported he could not permit criticism of the state legislature or state governor. Dickey went ahead and placed in the newspaper the title of his editorial but then left the rest of the column blank putting a censored stamp printed across where his article would have been printed. Dickey was refused admission for the following semester. The Court stated that rules for maintaining order and discipline are generally reasonable but that in this case the refusal to permit the publication of the editorial was not for the maintenance of order and discipline. The Court stated that a state cannot force a college student to forfeit his constitutionally protected right of freedom to expression as a condition of his attending a state-supported institution. Further, the fact that it is a student publication will not make the publication be considered as something other than a newspaper. This was decided by the Western District Court in Wisconsin in the case involving Lee v. The Board of Regents of State Colleges. The Court also stated in that case that the publishers' right to express their views on vital issues of the day could not be restricted unless a clear and present danger to society was apparent.

Rationale for aspects of this topic can be illustrated by recent New Jersey libel decision with a substantial award to a female high school student who had sued the school, certain administrators, and the publisher for libelous statements concerning her appearing in the school newspaper.

C. Facilities

Use of such facilities as bulletin boards, public address systems and gymnasiums should be made available to students at reasonable times and for reasonable purposes. A captive audience problem is raised by use of some facilities, such as the public address system; if opinions are to be advanced, equal time should be provided.

D. Inquiries by outside agencies

Generally it is the function and responsibility of the school to provide information concerning the character, conduct and grades of a student to any inquiring agency. The school should not, however, provide information concerning the values, philosophies or opinions of individual students.

E. Organizations and activities

Can a student be disciplined by the school for the following outside activities:

Participation in demonstrations by certain organizations? No.
Student is arrested for trashing? No.

Student is arrested for trashing with an organization using the school's name? Probably yes.
Student is arrested for fire bombing? Probably yes.
Teacher sees student at age-21 bar with false ID? No.

Note that Erasser v. School Board of District Number 1, 135 Wis. 619 (1908) has ruled generally that a school can exercise control over student outside activities if they have a direct and immediate tendency to influence the conduct or other students while in school or to impair appropriate school discipline.

Ask the students to comment on the following: A pole vaulter on the school track team wears hair approaching shoulder length. Coach, after warning him to cut his hair, drops the student from the team when he refuses to do so. (Is this different from a case where the principal suspends a student for the same reason? What if football were involved instead of track?)

IV. STUDENT AUTOS

Ask how many students come to school in cars, and whether the school has adopted car regulations. As noted in articles in the Wisconsin Association of School Boards Magazine published in April and May of 1971, public school boards have under Wisconsin Statutes the authority to make rules for the organization and government of their schools, and such authority provides a basis for enacting reasonable regulations to control student driving. Under the Erasser case and cases of other jurisdictions, the law can be somewhat summarized by stating that school districts will have the right in Wisconsin to limit the use of automobiles by students, particularly in those situations where the facts obviously show that a hazard is being created by allowing students to drive their cars as they wish.

V. SUPPLEMENTAL MATERIAL

A. Torts

In any of the following cases can you be sued in a civil action? Is any case also prohibited by law in Wisconsin?

1. Jokes. You hurt a friend while you are doing a practical joke on him? Liable in tort; without intent, no crime.

2. Rough-house. You hurt a friend while you are wrestling in fun? No tort because of consent.

3. Dates. You hurt someone who is threatening a girl who is with you? Not liable in tort if the force used was justified.

4. Strangers. You hurt someone who is threatening a stranger? Less clear because of lack of obligation to help.

5. Sports. You hurt an opponent while playing in a school football game? No tort, unless perhaps a deliberate violation of the rules involved.

6. Arguments. You hit someone during an argument? Probably both tort and crime.

(One possible technique is to put the above situations on a handout without the answers and give to the students at the close of the preceding class.)

B. Finders Keepers

Discuss Wis. Stats. 170.07 through 170.11 in such contexts as finding property on school grounds.

VI. OUTSIDE READING

Crimes and Justice, Justice in Urban America Series, Houghton Mifflin, 1969, page 20 (photograph)

Xerox of Wis. Stats. 170.07 - 170.11

Texarkana Will Snoop on Students

Texarkana, Tex. -AP- The Texarkana School Board has voted in an emergency meeting to install cameras and tape recorders in the city's high and junior high schools as a psychological deterrent to further disturbances.

The unanimous action was taken after two teachers reported that their lives had been threatened and fires were set in high school restrooms.

A teacher will be assigned to each camera and take pictures of students involved in any disturbance.

The tape recorders will be placed in each classroom so that the teachers "can record any threats and back talk," the board said.

Last month, 141 students were suspended from the high school after a racial disturbance. Judge Robert Scholfield of Denton issued a permanent injunction allowing them to return to classes.

Scholfield said the students had been denied due process of law in hearings conducted by the school board and that the board had vaguely defined the "disruptive activities."

Under the new policy, any student who violates the rules will be expelled for the remainder of the semester and will receive failing grades in all classes.

Bill Aims at Guarding Serious Student Rights

CONCORD, N.H. (UPI) — A New Hampshire legislator believes that the time has come to protect the right of the majority of students to pursue their education without campus disruptions.

Rep. Malcolm J. Stevenson (R-Bethlehem), a conservative lawmaker from New Hampshire's north country, is backing the "student civil rights" bill.

THE MEASURE, modeled on federal civil rights legislation, would guarantee students the right to follow their academic pursuits in peace and fine those who try to disrupt it, he said.

The legislation is an outgrowth of an appearance by three members of the self-styled "Chicago Seven" at the University of New Hampshire last May as well as a largely unsuccessful attempt to shut down the campus after the slaying of four students at Kent State University in Ohio.

ABBIE HOFFMAN, David Dellinger, and Jerry Rubin, speaking after a court-ordered deadline, called for revolution to overthrow the existing system of government in speeches peppered with four-letter obscenities.

A student civil rights bill would give reluctant university officials the legal backing to crack down on campus troublemakers, Stevenson, 61, a fuel oil dealer, said.

"THERE IS a line where freedom of speech and action begins and ends," he said.

The legal adviser to the university's Board of Trustees says he doesn't think the bill would accomplish its stated purpose and could tie up the university in an endless series of lawsuits.

"If this bill passes, I could become a rich man," Atty. Joseph A. Millimet said.

A greater danger, he said, would be undermining the authority of the university trustees to run the three campuses in the system.

71

Midland, Michigan

ASSAULT after HOCKEY GAME causes BRAIN DAMAGE -- $420,000 VERDICT College student was player in hockey game arranged by director of defendant city's recreation department and played at city's outdoor rink. Plaintiff's team was winning by large margin and fans of other team became boisterous and urged their players to roughhouse and fight. Near end of game co-defendant spectator proceeded with other fans out onto playing surface and assaulted plaintiff. Plaintiff contended that city was negligent in failing to properly supervise fans, either by use of recreation personnel or police officers. Verdict was against defendant assailant only, who did not appear at trial. INJURIES: skull fracture and brain damage resulting in hesitancy of speech and thought, partial loss of use of right hand and traumatic convulsions controlled by medication. SPECIALS: medical, $6,500. Plaintiff's earning capacity was permanently impaired. For plaintiff, Cicinelli, Mossner, Majoros, Harrigan & Alexander by T. L. Majoros and Peter F. Cicinelli. For defendant city, John Purcell; Patrick Hynes; for defendant assailant, Edward Goggin. Duncan, et al v. City of Midland, et al, #1281.

THE STUDENT AT HOME

(First Session)

I. GOAL

The purpose of this session is to introduce the students to some of the legal principles involved in the relationship between parent and child. The student should particularly be made aware of all the ramifications which surround emancipation and any misconduct on the part of the minor student.

II. RIGHTS AND DUTIES

A. Dress, Speech, Discipline and Freedom

In general, parents are required to provide complete support and maintenance for their children. As a result, parents are given by the law considerable leeway in establishing rules and demanding obedience of their children. They are allowed to do anything within reason to raise and train their children in the manner in which they think best. This will include the application of reasonable physical punishment and the imposition of curfews. Parents also may require the performance of services on their behalf by their children. Since students are likely to have numerous specific questions on these points, it is suggested that the instructor entertain questions from the class.

B. Earnings

Generally the earnings of minor children belong to the parents. Parents have the right to control these earnings if they wish, but can also release them to the child.

C. Duties

Parents are required by law to provide food, shelter, clothes, medical attention and education for their children. (Chapters 48 and 52, Wis. Stats.)

Parents can lose custody of their children in a number of ways, including emancipation of the child, parental abandonment, parental neglect, and unfitness of parents (see Wis. Stats. 48.40).

Explain that any child, as well as a spouse or parent, of any dependent person is required under Wisconsin law to support that person fully (see Wis. Stats. 52.01).

D. Emancipation

Emancipation may occur by marriage of the child, his reaching the age of 21, or by an agreement between the child and parents. The child, among other things, may then claim his own earnings and is responsible for his own behavior. Point out specifically that this means that the minor will then be responsible for his own room and board, medical and automobile insurance, and his own support when he becomes sick or disabled.

III. LIABILITIES

Discuss with the class such fact situations as the following:

1) A minor student accidentally injures an acquaintance with a bayonet just given him by his parent: the student will be liable, parent may be liable if negligent.

2) A minor student does $1,000 property damage willfully: student will be liable, parent will be liable under Wis. Stats. 895.035. Dramatize with a specific example.

3) A student under 18 negligently causes $50,000 damage while driving car: minor will be liable, parent will be liable if he signed as sponsor under Wis. Stats. 343.15(2).

4) A minor student invites a friend to his residence without warning him that the doorbell wire is bare: minor will be liable, parent also may be liable.

IV. OUTSIDE READING

Teenagers and the Law, Hanna, Ginn & Company, 1969, pp. 101-104.

THE STUDENT AT HOME

(Second Session)

I. GOAL

The purposes of this session are to heighten student awareness of certain of the requirements and formalities surrounding marriage, with emphasis upon the considerable responsibilities which result; to discuss the concept of divorce only generally, with emphasis upon the many potential points of conflict and trauma involved in the issues of support, child custody, and visitation; and to discuss generally the advisability and requirements for having a will, with emphasis on some of the rationale behind having probate procedures. In connection with the discussion on probate, the instructor should keep in mind the current criticisms of probate procedure, and should attempt to answer any questions the student may have and to explain the necessity for reforming probate while at the same time dealing with the problem areas as outlined below.

II. MARRIAGE

A. Who May Marry

1. Age. Girls sixteen and over with consent of parent, eighteen or over without consent; boys eighteen and over with consent of parent, twenty-one and over without consent. (Wis. Stats. 245.02)

2. Relatives. Generally, persons are not allowed to marry if their relationship is closer than second cousin. (Wis. Stats. 245.03(1))

3. Divorce. A person cannot remarry until after one year following a divorce; then, if the person is supporting minor children in the custody of another, he must obtain court permission to remarry. (Wis. Stats. 245.03(2), 247.37(1) and 245.10) The instructor should note that marriages in violation of Wisconsin rules are void (Wis. Stats. 245.21), and that leaving the state to circumvent these rules, such as the parental consent requirement, will also result in a void marriage (Wis. Stats. 245.04).

B. Formalities

1. Common Law. Explain the term, and note that this is not valid in Wisconsin. (Wis. Stats. 245.21)

2. Who May Perform. Ceremony may be performed by a minister, priest or judge, with two adult witnesses present. (Wis. Stats. 245.16, 245.17)

3. Requisites. Physical examination is needed twenty days prior to marriage (Wis. Stats. 245.06); marriage license is needed five days prior to marriage (Wis. Stats. 245.08, 245.09).

C. Rights and Duties

1. Support. Parents must support children as noted in first session, husband must support wife, and wife must support husband under certain circumstances. (Wis. Stats. 52.01, 52.05)

2. Property. Under Wis. Stats. 861.03 and 861.05, generally the husband or wife has the right on the death of the spouse to one-third of all property owned by the spouse on the date of death.

III. DIVORCE

A. Definition

Instructor should distinguish between annulment, divorce and legal separation.

B. Conduct

Note that misconduct of one of the parties may affect the court's ruling on such areas as property division and child custody.

C. Support and Custody

Regarding custody, note that the controlling consideration is the welfare of the child; all things being equal, custody will go to the mother. Regarding support, the husband's obligation to support his wife and children continues beyond the divorce. Define alimony; note that the wife is sometimes given a division of the husband's property in place of alimony. Note that a husband's need to support a second wife and family will not affect his required support of his first wife and family. Also note that students attending this type of class in the past have been particularly interested in what is likely to happen to the children as a result of a divorce.

D. Visitation

Note the several problems inherent with visitation. Concrete examples from the attorney's experience should serve to stimulate class interest, particularly regarding problems in visitation, support and custody.

IV. WILLS

A. Advisability

Discuss the general advisability of having a will, including such aspects as follows. Each student would be surprised at the amount he will soon own, including benefits from his job, insurance, automobile, T.V., stereo equipment and furniture. Without a will, property generally will be divided between the spouse and children, which is not desirable when the family is young and the wealth is not substantial. Note problems with guardianship for minors, inflexibility of intestate law, inability to choose personal representatives. By using a will and estate planning, one will have the chance to reduce taxes, and in some cases can either avoid or reduce probate procedures and expenses. A will can be changed at any time. However, it should also be noted that for childless couples and unmarried persons without substantial wealth, in most cases the intestate laws will suffice.

B. Requisites

Note that under Wis. Stats. 853.01, any person of eighteen years of age and of sound mind may make a will. Discuss generally the formal requisites of writing, signatures and witnesses. Note the purpose of these formalities, which in part is to impress the signer with the importance of the document.

C. Reasons for Probate Procedures

1. Creditors. Discuss the intent to protect creditors.

2. Taxes. Discuss the intent to insure proper payment of taxes.

3. Heirs. Discuss the desirability of insuring identity of the heirs of the deceased and that the proper amounts go to the right people.

4. Problems. Discuss the frequency of unusual problems, such as lost assets, objections concerning the will by heirs, or such bequests as the recent Arizona will giving $300,000 for research concerning the existence of a human soul.

V. PATERNITY

Students in the past have expressed considerable interest in paternity actions and their ramifications. Accordingly, the instructor might refer to the paternity sections of Chapter 52 of Wis. Stats., and in particular to §52.37 regarding economic liabilities and §52.39 regarding commitment.

An article by Anthony Ripley (New York Times News Service) has been omitted here because of copyright restrictions. It is, "Soul Research Gets New Life."

RIGHTS AND NON-RIGHTS
(First Session)

I. GOAL

This session will serve as an introduction to the Bill of Rights. The material is designed to stimulate student interest in the Bill of Rights, particularly for those not familiar with the various provisions. Several recent controversial laws are presented for consideration toward that end; the instructor, however, should take care to supplement these items with matters of more immediate interest at the time the particular session is being given. An extended discussion concerning the failures and successes of our legal system should be postponed to a later session, after the students have had the opportunity to be exposed to the particular rights in more detail. The instructor might describe one of the goals of the course as exposure in general to the manner in which the legal system operates, including both cases of dramatic failure and equally dramatic success, with the hope that the student will benefit from an increased awareness of what his rights are under this system, and that on the practical level the system may benefit from the students' willingness to work toward the fuller implementation of those rights. The instructor should ascertain the level of knowledge in the class concerning the Bill of Rights, and adjust the level of instruction accordingly.

II. INTRODUCTION

A. Sample Rights

1. Flag Abuse Laws. Read or reproduce for the class Wis. Stats. 946.05 and 946.06. Discuss the ragged manner of enforcement of such laws, in the country in general and in the local community. Display or make available the article and excellent color photographs appearing in TIME magazine, July 6, 1970, pages 13-16.

Question the class as to whether this situation involves a right or a non-right under our Constitution; have them isolate what right is involved and discuss the possiblity that that right has been unconstitutionally abridged.

2. Washington, D.C. Crime Law (July, 1970). Read or make available to the class highlights of this law, and discuss the question of whether it may violate any of the rights guaranteed under the Constitution.

3. Sixty-day Detention Law. Read or make available to the class the highlights of the pre-trial detention legislation submitted to Congress by Attorney General Mitchell in May, 1971; discuss the question of whether this may violate any constitutional right.

B. Comparisons

Similarities and distinctions could be discussed with respect to the following:

1. The movie "Z".

2. The decision in August, 1970 by Nigeria to execute armed robbers in public by firing squad or gallows in order to reduce a rising crime wave.

3. The Death Squad of Brazil which is linked to the execution of hundreds of suspected criminals in recent years, and which allegedly is composed of members of Brazilian police forces.

4. "A Comparative Look at World Crime," Crimes and Justice, High School Civic Problems Series, Law in American Society Foundation, 1969, pages 24-25.

III. DUE PROCESS

A. Definition

Being a general compilation of several rights, the right of Due Process can serve as an appropriate introduction into the specific rights involved. The phrase may be described as a series of laws designed to establish a government strong enough to enforce the law, thereby insuring the maximum community good, yet not so strong as to threaten individual liberty, thereby assuring maximum personal freedom.

Read to the class or place on the blackboard excerpts from the fourth, fifth, sixth and eighth amendments. Note that these comprise the heart of Due Process, and illustrate the following values of the system:

1. The innocent should be protected. This is based on the philosophy that it is best to have nine guilty men go free rather than have one innocent man be convicted. Consequently, the guilty do go free, but it is the Law that sets them free, by means of a deliberate, reasoned choice. As was stated in Spano v. New York, 360 U.S. 315 (1959), the system considers that the use of illegal crime prevention methods is actually more dangerous to the people than the criminals themselves.

2. Trials should be as fair as possible.

3. The system should incorporate the democratic process as much as possible. This means having juries rather than judges alone make the crucial decisions, and having public rather than private trials.

4. Protections should be installed against possible abuses by government officials (searches and self-incrimination sections).

5. Human dignity (self-incrimination and cruel punishment sections).

6. The importance of privacy of the individual.

B. Examples

Objections may emerge from the class that despite the principles and ideals contained in the concept of Due Process, on the practical level these concepts are seldom implemented. The instructor might in response suggest the importance of knowing precisely what the ideals are, and the exact manner in which implementation has failed, as well as the ingredients involved in the cases where implementation has been successful. With that knowledge, it is the hope of the course that the students will be better able to work toward a reduction of the failures and a proportionate increase in the successes.

1. In re Gault, 387 U.S. 1 (1967). Discuss the case using the materials provided in the outside reading.

2. Escobedo v. Illinois, 378 U.S. 478 (1964). Discuss using the materials provided in the outside reading.

3. School Locker Case. Note the case discussed earlier in the Student at School session; recall that the student was immediately suspended from school. Discuss whether Due Process is involved. Apply these principles to any topical school disciplinary measures. Refer to Medera v. Board of Education of the City of New York, 386 F.2d 778 (C.A.2 1967) holding that the procedural due process required will depend on the severity of the discipline and the nature of the offense; Stricklin v. Board of Regents, 297 F.S. 416 (W.D. Wis. 1969) apparently holding that in some cases a student may be immediately suspended pending a full hearing, with only a rudimentary preliminary hearing; and Soglin v. Kauffman, 295 F.S. 978 (W.D. Wis. 1968), holding that students cannot be disciplined for breaking a rule which is too vague.

4. History. Ask an interested student to read and report on The Rise and Fall of the Third Reich, Shirer, Simon & Schuster, 1960, pages 268-274, concerning German due process at that time.

IV. FREEDOM OF THE PRESS

A. The Law

Read or make available the appropriate language from the First Amendment.

B. Problems of Excesses

Engage the class in a discussion of whether they would want the press in this country to be totally free.

1. Bring to the class if possible an example of a publication which abuses or comes close to abusing its freedoms through extended use of libel, slur, innuendo or biased reporting.

2. Ask if the class has noticed slanted coverage in the local newspaper on recent topics of interest to them.

3. Refer to some of the historical examples of the yellow press, such as the war fervor during the Spanish-American War, the anti-Japanese fears fanned on the west coast during World War II, and the anti-communist campaigns during the Joe McCarthy era.

4. Note what appears to be an altered photograph on page 7 of Youth and the Law, in the outside reading.

C. Problems of Censorship

If any in the class are in favor of some restrictions, discuss the extent to which this should be accomplished.

1. Discuss the recent controversy concerning banning of all details from newspaper articles concerning murder cases; note that such a ban exists in Great Britain. Discuss the balancing of right to fair trial and freedom of press.

2. Discuss the historic controversy concerning newspaper coverage of U.S. military campaigns, such as in World War II and in Viet Nam.

3. Discuss the recent banning in Viet Nam of the playing of the recording "The Battle Hymn of Lieutenant Calley."

4. Refer to the treatment of the press and other media in Germany from 1930 through the end of World War II. Ask an interested student to read and report to the class concerning The Rise and Fall of the Third Reich, Shirer, Simon & Schuster, 1960, pages 244-248.

5. Discuss the application of these principles to the school newspaper.

6. Refer to New York Times v. U.S., 39 L.W. 4879 (June 1971), holding that government did not have sufficient justification for prior restraint. Should the press clear such stories with the government before printing?

7. Discuss State v. Knops, 49 Wis.2d 647 (1971), holding for right not to disclose, in the absence of state's proving compelling and overriding interest.

V. STATE ACTION

Make sure the students understand the concept of "state action" and the "doctrine of incorporation." It was originally contemplated that the federal Bill of Rights would protect citizens only from federal laws and that any protection from state laws or private individuals would have to come from state constitutions or laws. Explain how the states' neglect led to passage of the Fourteenth Amendment and how the more important of the Bill of Rights are incorporated through the Fourteenth's due process clause and thus made applicable to the states.

VI. JUDICIAL REVIEW

Mention Marbury v. Madison (1803). Why should a single man (federal judge) be allowed to overrule a law passed by the people (through their representatives)? How does this square with the functions of a democracy? Mention that in some countries, e.g. Great Britain, courts cannot overrule legislatures. Court decisions are often very controversial. Would it be better to decide them in the legislature where there is more time and opportunity for debate and where the wishes of the majority might become known?

VII. OUTSIDE MATERIALS

Youth and the Law, Justice in Urban America Series, Houghton Mifflin, 1970, page 7 (photograph); pages 72-75 (Gault)

As an alternate to the above reading concerning Gault, a full or abridged mock trial of Gault can be presented based on the excellent role-playing materials on that case in Voices for Justice, Quigley, Ginn & Company, 1970, pages 13-22.

Crimes and Justice, Justice in Urban America Series, Houghton Mifflin, 1969, pages 45-48 (Escobedo)

It is noted that this session contains an excess of material to allow flexibility to the instructor. For maximum exposure, some of the material of the class could be assigned as outside reading only, and deleted from classroom discussion.

Four articles are omitted here because of copyright restrictions. They are: "Nigeria to Fight Crime with Public Executions," (Wisconsin State Journal, Monday, August 31, 1970)

"Mitchell Asks Congress OK of 60-Day Detention Period,"

"Lt. Calley Ballad Banned in Viet,"

"Bill to Seek Ban on Flag Clothing."

RIGHTS AND NON-RIGHTS
(Second Session)

I. GOAL

This session is a continuation of the study of selected rights guaranteed under the expanded Bill of Rights. A surplus of material is provided so that the instructor or school may have some selection on the basis of current priorities or interests. The subject of Equal Protection is not emphasized, anticipating exposure to this area in several other school courses.

II. FREEDOM OF RELIGION

A. Introduction

This class should be initiated with material capable of immediately stimulating student interest. It is suggested that the instructor might select one of the following case situations for this role, or comment on any local situation relating to the freedom of religion.

As a sample alternative, the instructor might announce that he has chosen to begin discussion of religious freedoms on this particular day because the previous day was one of the feast days of the Zoroastrian religion, in which he is particularly interested. The instructor should then request student attention while he reads a brief appropriate prayer: On this holy day we all ask for the protection of the supreme deity (Ahura Mazda), and his help in our participation in the constant struggle between the spirit of good and the spirit of evil. Following this, the instructor could ask if anyone in the class might be a Zoroastrian; whether anyone in the class was offended by the prayer reading; and if not, would anyone be offended if such a prayer were read by the instructor at the beginning of each of the remaining classes in the symposium; is it possible that someone in the class might conceivably be offended. The several principles which might arise from this discussion could be explained as the basis for many of the controversial religious freedom decisions.

B. The Law

Read or make available to the class the appropriate excerpts from the First Amendment. Discuss generally what these phrases appear to say, and the problems which were troubling the drafters of the amendment.

C. Application

Have the students apply the law as it exists in theory and their own reasoning to the following concrete situations:

1. School prayer. Discuss the facts of Engel v. Vitale, 370 U.S. 421 (1962), which involved an official school prayer composed by the regents of the state of New York and which was required to be recited each day in the public schools (ruled a violation of the establishment clause of the first amendment).

Discuss the facts of School District of Abington Township v. Schempp, 374 U.S. 203 (1963), involving Bible reading (ruled unconstitutional, even though children could be excused during the readings).

Discuss the facts of McCollum v. Board of Education, 333 U.S. 203 (1948), involving released time religious instruction to pupils in public school buildings (ruled unconstitutional); and Zorach v. Clauson, 343 U.S. 306 (1952), involving released time religious instruction held outside the public schools (ruled constitutional).

2. School bus aid. Discuss the facts and rationale presented in Everson v. Board of Education, 330 U.S. 1 (1947), ruling bus aid to all schools as constitutional.

3. School financial aid. Discuss the facts and rationale presented in State ex rel. Warren v. Reuter, 44 Wis. 2d 201 (1969), allowing state aid to the Marquette School of Medicine. Compare with the U.S. Supreme Court decision in June, 1971 that financial aid to certain schools is unconstitutional.

4. School Bible study. Discuss the study of the Christian Bible (or any religious sacred text) as an educational enterprise. (Permissible under the Constitution)

5. Religious movies. Discuss the showing in school of any movie predominantly concerned with a religious theme. (If it could be shown that the presentation was devotional or meditational in character rather then educational, the showing would likely be ruled unconstitutional.) The difficulty of cases in this area can be demonstrated by asking the class to rule on the playing in school of the record Jesus Christ, Superstar during Easter week.

6. School nativity play. Have the students discuss the arguments on both sides.

7. United States currency. Point to the words "In God we trust" on the U.S. dollar or other currency or coinage; have the class discuss both sides. Note the argument of the proponents of such phrases that they represent primarily a cultural heritage rather than actual religious significance.

8. Space prayer. Note the recent actions by Miss Madalyn Murray O'Hair, the atheist, who objected to the Bible reading, prayer reading, and religious ceremonies conducted on the Apollo VIII and Apollo XI moon flights on the basis that these events were broadcast to the nation at large. (Case was dismissed by both lower federal courts, and the Supreme Court refused to hear the appeal.)

9. Religious use of peyote. Discuss People v. Woody, 61 Cal.2d 716 (1964), holding that a conviction under state narcotics law of an Indian believing that peyote is an integral part of his religion would violate the free exercise of religion guaranteed by the first amendment. Note that Timothy Leary has made the same argument and lost.

10. Religious bigamy. Ask students if they agree with the distinction in Reynolds v. U.S., 98 U.S. 145 (1878), holding that a conviction under a bigamy statute of an individual whose religion declared polygamy a religious duty was not unconstitutional. The case was in part based on a distinction that polygamy was actually a practice and not an integral part of religious belief.

11. Flag salutes. Discuss the differences in Minersville School District v. Gobitis, 310 U.S. 586 (1940), and West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943). Note the manner in which the Jehovah's Witness religion would prohibit flag salutes. (In Gobitis, the state requirement for saluting was ruled constitutional; with the subsiding of patriotic war fervor, this holding was reversed in Barnette.) These two cases raise several points of discussion, including the influence of outside factors on court decisions and the ability of our courts to reverse themselves.

12. Christian Scientists. Discuss generally the beliefs of the Christian Scientists concerning medical care, then present the following case to the class: where a pregnant Christian Scientist refuses a blood transfusion which her doctors deem necessary, should a judge (the state) issue a court order to the hospital to force a transfusion upon her? (Faced with such a case, Judge Skelly Wright ruled in the affirmative, on the theory that because of the fetus there were more rights to be protected than solely that of the pregnant woman.) As an extension of these facts, what result if the woman had not been pregnant? (One argument would be that if balanced against her religious and private freedoms, the state has insufficient interest to intervene and prevent her from the private act of self-destruction.)

13. Religious frauds. Discuss the difficult problems raised by U.S. v. Ballard, 322 U.S. 78 (1944), in which the Court disapproved of basing a conviction on an inquiry into the truth or falsity of unorthodox religious beliefs, but approved of an inquiry into the honest belief of the accused concerning the representations he might make.

14. Notaries. Discuss the problem of denial of governmental benefits because of a religious belief as suggested by Torcaso v. Watkins, 367 U.S. 488 (1961), ruling that a state cannot require a notary applicant to declare belief in the existence of God. Can the Girl Scouts deny a student membership if she refuses to sign their form which declares belief in the existence of God? (No state action)

15. Wisconsin prisons. Read or make available to the class Wis. Stats. 46.066(3) and determine the result where a Moslem prisoner requests but is refused a copy of the Koran for meditation in his cell.

16. Wisconsin Amish. Refer to the progress of the 1971 appeal involving compulsory attendance at public schools for those of the Amish religion.

17. Tax exemption. Walz v. Tax Commission, 397 U.S. 664 (1970) (upheld)

18. Religious symbols on public property. Discuss Howe v. City of Eugene, 451 P.2d 117 (1969), reversed on rehearing, 459 P.2d 222 (1969), cert. den. 397 U.S. 1042 (1970). Held: 51 foot high lighted concrete cross paid for by three individuals and constructed on city land overlooking city violated first amendment. Discuss Christmas displays in stores, streets and public parks. Are Christmas displays religious or commercial in nature? Note that Christmas displays are temporary whereas cross was permanent.

III. EQUAL PROTECTION

A possible project in connection with this segment would be to have interested students report to the class on interviews with representatives of appropriate minority groups in the local area, concerning what problems of equal protection may exist in the locale.

A. The Law

Read or make available the appropriate language from the Fourteenth Amendment.

B. Private Discrimination

Engage students in a discussion of whether government should be able to control by law their private attitudes concerning people, the manner in which they treat certain people socially, the manner in which they select their friends, etc. Consider what abuses could develop should the government hold this power. (Refer to the earlier discussion of this topic in the sessions concerned with free speech.) Should a resident owner of a duplex be allowed to refuse to rent the other half of the building to a Black because he is black? Because he looks mean and dishevelled?

C. Public Discrimination

Define the term, give such examples as voter registration requirements, segregation in schools or in certain kinds of business. Discussion could be extended to the facts of such cases as Shelly v. Kraemer, 334 U.S. 1 (1948), and Burton v. Wilmington Parking Authority, 365 U.S. 715 (1961).

D. Tate v. Short, 39 L.W. 4301 (1971) holding that conversion of a fine to imprisonment for those unable to pay is violation of equal protection.

IV. THE JURY SYSTEM

A. The Law

Read or make available to the class the appropriate language from the Sixth Amendment.

B. Application

Discuss the facts of Thiel v. Southern Pacific Company, 349 U.S. 217 (1946), holding that the trial of a railroad employee before a jury composed of business executives did not comply with the Constitution.

C. Evaluation

Discuss with the class the various drawbacks of the jury system, including the problem of finding peers, such as in the Bobby Seale trial, and the problems and delays in selecting, controlling and instructing jurors.

Discuss the advantages, including a comparison with such alternatives as a one-man or solely magisterial or judicial decision process. Discuss the stated goal of the jury system to aid in reducing public mistrust of justice by insuring democratic participation; and to operate as a check upon the system by insuring the reflection of attitudes from the community. Among the alternatives, class discussion may be generated concerning vigilante justice as suggested by the outside reading. Interest here could be heightened by having a student report on "A Violent Man Rises in Newark -- 40-Gun Tony Imperiale", LOOK magazine, September 9, 1969; photographs from this article are especially effective. Discussion may extend into general value of staying within the legal system, as opposed to the dangers implicit in the alternatives. Refer to the "Street Justice" article attached (Wisconsin State Journal, 5/26/71).

V. SUPPLEMENTAL SUGGESTIONS

Ask a student to report on how jurors are chosen in your locality, the nature of their qualifications, and how they may be excused.

Discuss whether jury trial should be abolished in instances where it is extremely likely that the jury would be prejudicial, such as a Georgia case involving a white man who is suspected of murdering a northern civil rights worker.

Have a student report on the details of the jury system or its substitute in another country of his choice. Class discussion can center on comparisons.

Have a student read the entire case of West Virginia State Board of Education v. Barnette, cited above, and comment on the facts, the Gobitis decision, and the court's overruling decision.

Ask a student to read and report on The Rise and Fall of the Third Reich, Shirer, Simon & Schuster, 1960, pages 234-240, regarding freedom of religion in Germany at that time.

VI. OUTSIDE READING

A. Freedom of Religion

A Civics Casebook, Quigley, Ginn & Company, 1967, page 45 (McCollum), page 46 (Engel), page 43 (Woody)

Our Bill of Rights, Manoni, Scott Foresman & Company, 1970, page 24-26 (Gobitis and Barnette)

The Bill of Rights, a Sourcebook, Cohen, Benziger Brothers, 1970, pages 247-249

B. Equal Protection

A Civics Casebook, Quigley, Ginn & Company, 1967, pages 48, 49; 54 (Burton)

Youth and the Law, Justice in Urban America Series, Houghton Mifflin, 1970, page 103 (photograph)

C. Jury System

Our Bill of Rights, Manoni, Scott Foresman & Company, 1970, pages 75-76 (Thiel)

A Civics Casebook, Quigley, Ginn & Company, 1967, pages 59-62
(vigilante justice)

D. Because a surplus of material is again provided, it is suggested that if maximum exposure is desired, a number of the cases cited in the outline could be assigned for outside reading and deleted from classroom discussion; brief synopses and discussions of these cases can be found in most instances in The Bill of Rights, a Sourcebook, Cohen, noted above.

A short article, "Space Prayer Case is Carried to Supreme Court," has been omitted here because of copyright restrictions.

the flight."

An article has been omitted here because of copyright restrictions. It is, "Street Justice Closes Book on Post-Fight Party Robbery"

RIGHTS AND NON-RIGHTS
Criminal Freedoms
(Third Session)

I. GOAL

The general purpose of this and the following session is to increase student awareness of certain of the criminal freedoms and the manner in which they are applied. These sessions are also designed to induce understanding concerning decisions in this area which have caused such tremendous public controversy, such as Escobedo and Miranda, and concerning future decisions in this area which may also provoke controversy. The instructor should emphasize the importance of discerning the interests of both the individual and of law enforcement which must be balanced in these areas. The cases also afford an opportunity to emphasize the fact that law constantly changes. A teaching technique which may be employed with any of the following cases could be: 1) xerox the facts from the case and the appropriate language from the relevant amendments and statutes and distribute to students in the preceding class; 2) have interested students give oral arguments to the balance of the class as jury, or conduct a more extensive mock trial using the suggestions of Voices for Justice, Teacher's Guide. In this and the following session, class interest would be greatly stimulated by any colorful examples from the instructing attorney's own experience in the criminal field.

II. THE RIGHT TO REMAIN SILENT

Refer to some of the techniques used in the early American colonies, such as the water-dipping of suspected witches and the stringing up of suspects by thumbs. Note that the original term "outlaw" meant that the individual because of his accused acts was now outside the law and beyond any of its protections, and could therefore be treated in any manner desired. Juxtapose these practices with the following cases:

A. Spano v. New York, 360 U.S. 315 (1959).

Discuss case using material provided in A Civics Casebook, Quigley, Ginn & Company, 1967, pages 81-82. (Case involved police interrogation and the use of a close friend to play upon the emotions of a suspect.)

B. Rochin v. California, 342 U.S. 165 (1952).

Discuss this case contained in the outside reading. (Case involved police use of a stomach pump to obtain pills swallowed by a suspect.)

C. Discuss Wisconsin's implied consent law.

D. Additional activities

1. Read or make available to the class the language of the Fifth Amendment.

2. Students may be capable of discussing the fact that this privilege cannot be invoked unless there is a reasonable basis for it, and unless the person raising it, rather than other persons, will tend to be incriminated.

3. Shouldn't an individual be compelled to admit that he is a member of the Ku Klux Klan (or any extremist group capable of stimulating student interest on this question)?

4. Ask the class to comment on the meaning of the following statement placed on the chalkboard: "I refuse to answer the question on the ground that it may tend to incriminate me."

5. Alemania, a migrant worker, is arrested by the local police. They bring him to the police station, book him and take his photograph and fingerprints. They then begin to interrogate him, to learn whether he was involved in shoplifting at a drug store. Ask the class whether he is likely to sign a confession, and why.

6. Where a coerced confession can be easily determined to be true and therefore trustworthy, such as relating to the location of hidden contraband, should the confession be allowed in court?

III. THE RIGHT TO HAVE AN ATTORNEY

A. Miranda v. Arizona, 384 U.S. 436 (1966).

Discuss this case, using if desired the materials in Crimes and Justice, Justice in Urban America Series, Houghton Mifflin, 1969, pages 48-50. Discuss the manner in which the warnings must be given, and in particular the rationale behind these requirements, keeping in mind the public controversy provoked by this decision.

Pose this question to the class: do you believe in this right to the extent that you are willing to pay for the suspect's attorney yourself if he proves to be indigent (i.e. through tax-supported legal aid)?

B. Rejection of attorney

1. Discussion of Gideon v. Wainwright, 372 U.S. 335 (1963) contained in outside reading.

2. Refer to the Chicago trial of Bobby Seale in which he consistently maintained that Mr. Kunstler was not his attorney, and to Angela Davis' requests to act as her own attorney. Should such requests be granted?

3. Refer to the Charles Manson trial, in which the three female defendants stated to the court their desire to take the stand on their own behalf, which position was blocked by their attorneys using the rationale of the Fifth Amendment. This raises the following question: How should an attorney react if a suspect, after considering all the factors and defenses available, ignores the advice of his attorney and announces to the court that he wants to plead guilty?

IV. TRIAL PROCEDURE

A. Jury Standards

Emphasize to the class the necessity for a unanimous verdict by a jury, and that each vote be given on the basis that guilt is beyond a reasonable doubt. Refer to the values noted under the Due Process segment in the first session concerning the Bill of Rights.

B. Disruption

Refer to the dilemmas posed by the Chicago Bobby Seale trial, note that a recent court ruling has held that by disruption a suspect will lose his right to confront witnesses. Refer to the Charles Manson trial, in which Manson struck his attorney in the courtroom.

C. Specific Rights

Selected for emphasis could be the following rights relating to criminal trials:

1. To be informed of the specific charges.

2. To be tried only after first formally determining that there is enough evidence to justify a trial.

3. To compel witnesses who may have information on behalf of the suspect to appear in court and testify.

4. An accused cannot be tried twice for the same offense.

5. To confront the prosecution witnesses. Refer to the Sir Walter Raleigh treason trial of 1603, in which the prosecution relied on the confessions and letters of Cobham, who was alive and well and could have been produced at the trial but was not. The accused requested that he confront Cobham, knowing that Cobham had since retracted all such statements, but the request was denied, and the accused was executed.

6. Ask the class to rule on the following facts: Miss Culpepper, a shy and timid old maid, saw an assault by a student on the manager of her neighborhood grocery store. Because she, and the district attorney, feared for her safety, she was allowed to testify in a trial of the accused student without the accused being present.

7. Ask the class to rule on the following facts: Alex Devereaux, a student Black Panther, is to be tried on a criminal accusation. To avoid having his supporters stir up sympathy for him, create disruption in the courtroom, and focus national attention on the trial, only court and police officials and the press are allowed in the courtroom.

D. Trial Publicity

Note the following remarks by President Nixon during the Charles Manson trial: "Here is a man who was guilty, directly or indirectly, of eight murders without reason. Here is a man, yet, who, as far as the coverage was concerned, appeared to be a glamorous figure." Defense attorneys immediately moved for a mistrial. The judge denied the motion; how would the class have voted? Reference can also be made to the outside reading concerning the Sheppard case. Reference can also be made to the Juan Corona case by considering the attached article. See pages 97-98 from same newspaper.

E. Violation of Procedure

1. Confession. If improperly obtained, these cannot be used at trial.

2. Exclusionary Rule. If evidence is improperly obtained, it must be excluded; it cannot be referred to or used at trial. This severe rule developed, as has been stated in the California case of People v. Cahan (1965), because other rules designed to protect the accused had proved to be inadequate. Note that the result of these rules will often be the release of an accused even though he may have confessed or have surrendered incriminating evidence. Discuss the criticisms and defenses of these rules excellently outlined in the outside reading.

IV. SUPPLEMENTAL MATERIAL

A. Engage the class in a discussion concerning whether the state has any business being involved in crime and punishment.

B. Discuss the pros and cons of the various punishment theories, referring to the outside reading.

C. Discuss the concept of victim compensation.

D. Have a student report on the actual procedures of providing free legal counsel for the indigent in your community.

E. Invite a member of the district attorney's staff to talk to the class concerning the responsibilities and problems of his office with respect to prosecutions.

F. Have three students dramatize the interrogation of a suspect, designed to illustrate why confessions resulting from some interrogations should be excluded from use at trial.

G. In the class' opinion, are the courts handicapping the police; if so, how; and is it worth it?

H. An interested student might report to the class on the practices of the Spanish Inquisition and the English Star Chamber, with respect to the need for public trial. Is there not some conceivable case where a private criminal trial should be allowed? Should radio and TV coverage be allowed in a courtroom concerning a criminal trial?

V. OUTSIDE READING

Crimes and Justice, High School Civics Problems Series, Law in American Society Foundation, 1969, pages 46-7; and The Bill of Rights, a Handbook, Sobul, Benziger Brothers, 1969, pages 156-158 (Sheppard)

Crimes and Justice, Justice in Urban America Series, Houghton Mifflin, 1969, pages 40-41 (Gideon); and 51-53 (Pointer)

Our Bill of Rights, Manoni, Scott Foresman & Company, 1970, pages 61-62, and 65-67 (Rochin)

A Civics Casebook, Quigley, Ginn & Company, 1967, pages 8-10 (procedures in the American colonies)

The Bill of Rights, a Sourcebook, Cohen, Benziger Brothers, 1970, pages 146-148 (cruel punishments); 155-160 and 168-169 (criticisms and defenses of criminal protections); 181-185 (rationale behind right to remain silent)

Optional Outside Reading:

Crimes and Justice, Justice in Urban America Series, Houghton Mifflin, 1969, pages 24-25; and Youth and the Law, Justice in Urban America Series, Houghton Mifflin, 1970, photograph on page 65 (punishment theories)

Crimes and Justice, supra, pages 69-70 (statistics concerning crime victims by race, and victim compensation concept)

A newspaper article has been omitted here because of copyright restrictions. It is, "Twenty-first Yuba Body Found; link machete to suspect"

Two articles are being omitted here because of copyright restrictions. They are: "Chicago Mass Killer Set All-Time Record," and, "Attorney Charges 'Incrimination', Halts Tate Defendant's Testimony.

RIGHTS AND NON-RIGHTS
Criminal Freedoms
(Fourth Session)

I. GOAL

This session has the same basic goals as the previous session related to Criminal Freedoms. Once again, the instructor should expect objections from the class that these rights are primarily paper ideals, and that in the majority of actual cases they are not extended to the accused. A suggested response could be along the lines noted in the first session of the Bill of Rights segment.

II. UNREASONABLE SEARCHES AND SEIZURES

Read or make available to the class the appropriate language from the Fourth Amendment.

A. Requirements for Obtaining a Warrant

1. The Document. Discuss the warrant facsimile, attached.

2. Application. Discuss the fact situation of Mapp v. Ohio, 367 U.S. 643 (1961), in which a conviction based primarily upon evidence of lewd books and pictures seized during an unlawful search of the defendant's home was overturned under the Fourth Amendment.

Discuss the facts of People v. Brown (1955), Rabinowitz v. United States, 339 U.S. 56 (1949), and Ker v. California (1963) noted in A Civics Casebook, Quigley, Ginn & Company, 1967, pages 71-73.

In the case of an individual with a notorious criminal record, where he is suspected of committing a recent crime, shouldn't the police department be allowed to obtain the necessary evidence in any way they can?

B. Reasonable Cause - Examples

1. Application in Germany. Under an old German legal custom, a prosecutor can keep a suspect in jail as long as he can convince tne judge that the suspect might leave the country or try to change the evidence of witnesses. This device was frequently used by Hitler's secret police. Statistics relating to 1965 indicated that approximately 50,000 Germans are arrested each year for investigation, each person spending an average of 71 days in jail waiting for trial. Less than 4% of these people are eventually convicted and sentenced to terms longer than that which they have already served.

2. The Oriental in America. Discuss generally the treatment of Japanese-Americans in this country, particularly on the west coast, during World War II, which treatment included confiscation of property and internment. The rationale for this treatment was explained by Major General John L. DeWitt, Military Commander of the Pacific Coast: "The fact that no sabotage has taken place to date is a disturbing and confirming indication that such action will be taken."

As a supplemental concept, ask if this country extends the Bill of Rights to foreign citizens. Ask why this country should guarantee the rights of foreign citizens when, for example, Russia does not attempt to uphold the rights of those believing in democracy, and when for example the Communist Party has allegedly been pledged to the overthrow of the governmental and legal system existing in this country.

3. Cosa Nostra. Present the fact situation in United States v. Bonanno (1960). The case concerned a routine stakeout of Joseph Barbara, suspected of being involved with illegal whiskey. Through meticulous surveillance, New York State police officers observed Barbara's son rent rooms in a nearby motel, and on the next day discovered an unusual number of cars parked near Barbara's house. The decision was made to stop the cars on a public road when they began leaving the vicinity of the house. Stopping cars at roadblocks, they asked drivers their names, addresses, occupations, criminal records, ages and their purpose in visiting Mr. Barbara. The first few men questioned had past records of bootlegging. Since the questioning was taking a considerable period of time and the roads consequently were being blocked, each driver was then taken to a nearby police station for completion of the questioning. No one was questioned more than 30 minutes. Sixty men were questioned and over twenty of them had significant criminal records. None of the men was arrested.

This case can lead to several additional points of discussion. Should the criminal freedoms studied be extended to known leaders and henchmen in the Cosa Nostra organization? Of great interest to students has been the following additional question: How can an attorney represent and defend a criminal whom he has every reason to believe to be guilty of the alleged offense or of other offenses? To paraphrase Edward Bennett Williams' famous quote: "The Constitution does not guarantee a fair trial only for the innocent."

4. Informers. As a sample method of raising the problems posed by police use of informers, present the following situation to the class. The principal calls you out of class, takes you to the office for questioning. He states that someone has told the assistant principal that you have broken a school rule (use a specific rule topical to the school in question). What questions does this situation raise? (Discussion might include the need to know the exact statements of the informer, the reliability of the informer, the potential for harassment

5. Suspicious Actions. As a sample method of raising the problems posed by police reliance on suspicious actions, present the following situation to the class. The principal calls you out of class and takes you to the office for questioning. He states that you have been acting suspicious for the last four days, particularly around your locker. He announces that he intends to search your locker. What questions arise? (Aside from the privacy question raised by earlier school locker cases in this course, discussion might include whether suspicious actions are an accurate indication of guilt; and whether the potentials of harassment and the lack of restriction significant enough to outweigh the implications of such suspicious action.)

C. Searches Without a Warrant

Refer to the Mapp case noted above. Generally, even if the police have probable cause, they are not allowed to conduct a search of a house without a warrant; however, they have been allowed to search an automobile on the ground that it is more mobile than a residence. Note that the police are also allowed to search a person or residence to some extent if incident to a lawful arrest.

Propose the following situation, which is based in part on actual facts. Many students attending a Wisconsin state high school basketball tournament stay at a particular hotel. Earlier in the evening police have found several students at the hotel with liquor and drugs in their possession. Consequently, the police now want to enter every room in the hotel which is occupied by students without adult supervision, for purposes of searching the rooms. Under the Fourth Amendment, what results?

D. Wire Tapping

1. Compare the fact situation of Katz v. United States, 389 U.S. 347 (1967), involving police usage of a wireless transmitter on the outside of a telephone booth in order to hear conversations of a suspected gambler (ruled an illegal search), with U.S. v. White, 39 L.W. 4387 (1971) upholding use of listening device attached to individual talking with the accused.

2. Discuss what practically could be done on behalf of a student who complains that he suspects his telephone is being tapped.

III. DEFENSE OF INSANITY

Among points for discussion would be the following: (1) Those adjuged insane are not merely acquitted to go free, but under Wis. Stats. 971.13 and 971.17 are committed to an institution; it has been argued by some that it is preferable for the accused to be

convicted rather than found criminally insane. (2) Discuss whether the criminally insane should be treated differently than other accused persons. (3) If someone was clearly insane when he committed the act, but was just as clearly sane by the time of trial, should he be automatically placed in a mental institution?

IV. THE RIGHT TO BEAR ARMS

Read or make available to the class the appropriate language from the Second Amendment. Discuss the fact situation of State v. Workman, 35 W.Va. 367 (1891), involving the conviction of the defendant for carrying a concealed weapon, in spite of his argument that he had a right to bear arms to defend himself under the Second Amendment. See Our Bill of Rights, Manoni, Scott Foresman & Company, 1970, pages 39-40.

V. RIGHTS FOLLOWING CONVICTION

A. Habeas Corpus

Define and describe briefly; see Chapter 292 for specifics.

B. Pardons

Note the considerable powers for granting pardons, and allude to the procedures involved, contained in the following: Wisconsin Constitution, Art. V sec. 6; Wis. Stats. 973.01(2); Wis. Stats. 57.08 through 57.11.

Compare these powers with that exercised by President Nixon in 1971 in his order that Lt. William L. Calley be released from stockade to confinement to his own quarters, pending the appeal of his court martial.

VI. SUPPLEMENTAL MATERIAL

In June, 1942, German submarines landed two separate teams of military-trained saboteurs on the coast of Long Island and Florida. They were quickly captured and brought to trial. One of the central issues of the trial was whether these men, in civilian dress and most of them German citizens, should be entitled to due process under the U.S. Constitution. Have the class discuss the problems. (The Supreme Court, in Ex Parte Quirin et al, 1942, ruled essentially in the negative. Nevertheless, as an example of one success of the American

legal system, the instructor might note that on the eve of their execution the captives drafted in their cell the following statement: "Being charged with serious offenses in wartime, we have been given a fair trial . . . . Before all we want to state that defense counsel . . . has represented our case as American officers unbiased, better than we could expect and probably risking the indignation of public opinion . . . ." See They Came To Kill, Rachlis, Random House, 1961.)

VII. OUTSIDE READING

A Civics Casebook, Quigley, Ginn & Company, 1967, pages 71-74; page 77

Crimes and Justice, Justice in Urban America Series, Houghton Mifflin, 1969, pages 60-62 (Camara v. Municipal Court (1967))

The Bill of Rights, a Sourcebook, Cohen, Benziger Brothers, 1970, pages 165-166, 168

Optional Outside Reading:

Crimes and Justice, Justice in Urban America Series, Houghton Mifflin, 1969, pages 71-75

Privacy, American Education Publications, Xerox Corporation, 1971, pages 13-27, 47-51

"Calley Prosecutor Lashes Nixon for 'Damaging system of Justice'" has been omitted because of copyright restrictions

RIGHTS AND NON-RIGHTS
(Fifth Session)

I. GOAL

The most outspoken of youth have recently appeared to agree with the majority of the rights guaranteed by the Bill of Rights, but have centered their criticism on the inadequate protections and implementation of these rights by the system as it operates. However, a significant number of youth, as well as adults, strongly disagree with many of the rights themselves. This has been illustrated by a CBS "60-Minutes" poll conducted in 1970, and by a poll similar to the attached conducted in 1971 by Madison high school students. This class is designed to expose for discussion some of the disagreements and criticisms of this country's laws and legal system, in an effort to have the students articulate evaluations in the light of what they have learned in previous sessions.

The supplemental material at the close of this session is designed to provide the instructor with ideas should additional sessions concerning the Bill of Rights be desired. Although this material will be more appropriate following the students' exposure to the specific rights in the preceding classes, it can also be incorporated within the instruction on the relevant amendments.

II. SHOULD THE BILL OF RIGHTS BE ALTERED?

At the close of the preceding class, distribute copies of the attached poll to each student. Add or substitute additional questions if desired. In addition to the poll, distribute to each student a copy of The Expanded Bill of Rights, attached, asking them to note on the reverse side any changes which they themselves would want.

Using student assistants at the blackboard, compile the results of the poll and discuss with the class the possible ramifications. Then discuss the students' personal reactions to the Expanded Bill of Rights, with emphasis on which rights should be deleted or altered, and what additional rights should be added. Stress to the class that our present Bill of Rights can be amended at any time under our legal system, and note any current attempts which relate to specific rights. Again, this provides an opportunity to note the flexibility of the law and its ability to change. Point out that the Bill of Rights itself represents changes ("amendments") to the Constitution; 18-year-old voting may be used as a more dramatic example of change.

Have the class analyze this statement: "It has been said that eighteenth century rules (the Bill of Rights) are being imposed on a nineteenth century institution (the city police force) to try to deal with twentieth century problems."

III. GOALS OF THE LEGAL SYSTEM

Among the various statements of goals note and discuss the following:

A. "The goal of our legal system is not to convict the guilty, allowing only the innocent to go free, but more precisely to achieve justice."

Compare this statement with the following statement of the Madison real estate broker who in 1971 began a campaign to impeach U.S. District Court Judge James Doyle: Judge Doyle is taking away one of the rights guaranteed by the Constitution, "the right to punish the people who are culprits." The instructor should note that this campaign also lends itself to additional comment concerning the flexibility of the system which has provisions for the recall of judges.

B. "The goal of the American legal system is to provide a peaceful means of settling disputes."

Refer to the discussion of this goal in the introduction to the symposium.

C. "The goal of the American legal system is to guarantee the freedom of each individual, unless it should impair the freedom of other individuals."

To generate additional discussion, the instructor might note that a failure of these goals, or their abandonment, may mean the possibility of anarchy, which in turn may result in the suspension of all rights. Note the concrete recent example of the experience of Canada on October 17, 1970, as a result of the kidnapping and murder of a cabinet member.

The instructor might comment on the further statement that clearly the American legal system is unsatisfactory, but that just as clearly the alternatives are worse.

Ask the students to give their reactions to the attached statement, which could be assigned as outside reading or read firsthand to the class. Discussion should gravitate to the revolutionary character of the document. Students may be able to identify it as a paraphrasing of the Declaration of Independence. Does the thrust of this document still apply to the people of the United States today?

IV. SUPPLEMENTAL MATERIAL

A. An entire class can be devoted to consideration and discussion of the excellent material contained in "The Due Processing of Asbury Howard," The Bill of Rights, a Handbook, Sobul, pages 125-139. The material should stimulate student interest, and would serve as a valuable culmination of the segments concerning the Bill of Rights.

B. Have the students in advance select a figure who will be charged with an appropriate crime and tried in a mock trial. The figure can be historical, such as Napoleon, Alexander the Great, or a United States general; he could be contemporary, such as a world figure, the United States President, or the mayor of a United States city; or he could be off-beat, such as Steve Canyon, Jane Fonda, or Al Capp. Procedures can be adapted from Voices for Justice, Teacher's Handbook, or from The Bill of Rights, a Handbook, pages 167-180.

C. Have several students report thoroughly to the class concerning their investigation of a case noted in TIME magazine, September 11, 1964, pages 23-24, which concerned the Georgia acquittal of two white men charged with the death of a black.

D. Have several students report to the class on the provocative article appearing in LIFE magazine, March 12, 1971, pages 57-68 concerning extended comments of a prominent legal aid lawyer with respect to the operation of justice in America.

E. In advance of the class, assign students to argue all sides of the Rudy Smyth case, attached, a problem originally created for the Legal Writing course at the University of Wisconsin Law School in spring, 1971. This case is suitable for adaptation to the mock trial techniques of Voices for Justice, Teacher's Handbook.

F. Ask several students to present a report to the class concerning the general legal system of another country of their choice, with the emphasis on comparisons and evaluation of the differences. On a more narrow question, have the students report on the civil liberties guaranteed under the constitution of the U.S.S.R., and the implementation of those rights.

G. Ask a student to report on "The People vs. Donald Payne," the bitter center-piece of the March 8, 1971 issue of Newsweek containing a special report on Justice In America.

Several articles are being omitted here because of copyright restrictions. They are: Emergency Powers Claimed by Canada "Rights Suspension 'Unlikely' in U.S." "Town Shows Sympathy in Killing"

SATURDAY MORNING OCTOBER 17 1970 MORNING FINAL 10c

STUDENTS' RIGHTS

Conduct a poll of at least four adults, including your parents, concerning the following questions. Upon completion, note on the reverse side what specific changes they may want to be made. In addition, include any specific changes which you would want to be made to the attached Bill of Rights. Bring to class for purposes of discussion.

1. Should the Constitution guarantee free speech to the extent of allowing virulent criticism of government policies and officials?

	1	2	3	4
yes				
no				

2. Should the Constitution guarantee free speech to the extent of allowing students to wear long hair, beards, jeans and anti-war armbands to class?

	1	2	3	4
yes				
no				

3. Should the Constitution guarantee freedom of religion to the extent of prohibiting the saying of prayers in the classroom?

	1	2	3	4
yes				
no				

4. Should the Constitution require a search warrant to search for drugs or firebomb materials at a suspected location?

	1	2	3	4
yes				
no				

5. Should the Constitution allow a man acquitted of murder to go free, if he subsequently admits his guilt?

	1	2	3	4
yes				
no				

6. Should the Constitution require that no significance be attached to the fact that a man accused of a plot to assassinate government officials refuses to answer questions concerning such plot?

	1	2	3	4
yes				
no				

7. Should the Constitution require that taxpayers provide attorneys for accused criminals unable to pay for representation?

	1	2	3	4
yes				
no				

8. Should the Constitution require to go free an accused man who confesses to murder but who had not been previously told by police of his legal rights?

	1	2	3	4
yes				
no				

9. Should the Constitution require that the states shall not treat any person unequally?

	1	2	3	4
yes				
no				

THE EXPANDED BILL OF RIGHTS

AMENDMENT I

Congress shall make no law respecting an establishment of eligion, or prohibiting the free exercise thereof; or abridging he freedom of speech, or of the press; or the right of the eople peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

AMENDMENT III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

AMENDMENT IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation: to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

AMENDMENT VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

AMENDMENT VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

AMENDMENT X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

AMENDMENT XIII

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XIV

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

AMENDMENT XV

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude—

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XIX

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

STATEMENT

We believe the following facts are unquestionable:

1. That all men are created equal;
2. That God has given all men certain rights that cannot be taken from them; and
3. That some of these rights are the
   a. right to life,
   b. right to liberty, and
   c. right to the pursuit of happiness.

We believe the following facts are unquestionable:

1. The job of the people who run the country is to protect the rights of the people, and
2. The only fair powers the people in the government have, have been bestowed by the people.

We believe the following facts are unquestionable:

1. That whenever the people in power begin to take away the basic rights of the people, the people have a right to
   a. change their government;
   b. begin a new government; and
   c. protect their happiness and safety by organizing and controlling the powers they give to people in the new government.
2. If people use good sense and look at past experience, they will see that a government that has been useful for a long time should not be changed for insignificant reasons.

Experience has shown:

1. That people will usually put up with very bad conditions in their country before they try to change current government; <u>but</u>
2. When the rights of the people have been infringed upon for a long time, <u>and</u> there is a danger that the people who govern are gaining too much power, <u>then</u>
3. The people have a right and a duty to throw out these people, and
4. To make new laws and a new government to protect themselves.

10¢

"Washington Arrests Reach Record 7,000", a newspaper article, is being omitted here because of copyright restrictions.

STATEMENT OF FACTS

On Thursday, January 15, 1971, at 2:30 a.m., Rudy Smythe, a student at the Wisconsin State University at Jeffersonville, took a walk in the city of Jeffersonville, Wisconsin. Smythe walked on the sidewalk in the 300 block of Muffin Street approximately 1/2 block from his house at 270 Muffin Street. The 300 block of Muffin Street is in the heart of a student residential area within easy walking distance of the University campus. Muffin Street is a high crime area. Most of the crimes committed are narcotics offenses and burglaries.

Rudy wore striped bells, a dark shirt, heavy boots, and an Air Force parka. Rudy whistled as he walked. He looked up at the sky periodically and down at the ground periodically. Now and then he looked from side to side. Rudy walked about one and one-half m.p.h., a leisurely pace. He kept his hands in his pockets. Rudy was the only pedestrian on the 300 block at that time. There was no vehicular traffic.

Rudy is twenty-five years old. He has black hair, brown eyes, and a dark complexion. He is 6'1" tall and weighs 180 pounds. Rudy's hair extends down to his shoulders and he has a full beard and mustache.

Police officers Gore and Anderson were on routine patrol in their squad car and observed Rudy in the circumstances described above. Gore pulled the squad car to a stop at the curb across the street from Rudy and engaged in the following dialogue with him:

Gore: "Hey! Com're, Charlie."

Smythe: "Eh? Whassa matter? My name's not Charlie. Don't call me Charlie."

Gore: "Listen, Charlie. I said come here."

Smythe: "Pig, I'm not Charlie and I'm not going anyplace until you call me something else."

Gore and Anderson stepped out of their squad car and stood next to it. The dialogue continued as follows:

Gore: "I'm gonna stand right here and I'm gonna count to three. If you aren't next to this squad car by then, we're gonna come and get you."

Smythe: "Man, I don't have to answer any questions and I don't have to talk to you. If you wanna talk to me, you gotta arrest me."

Smythe began to walk away slowly. Gore pulled out his gun, cocked it, and pointed it at Smythe. Gore yelled, "Stop! If you don't, I'll shoot." Smythe stopped and turned around. He saw the gun.

Smythe said, "Man, I'm not going anyplace. For God's sake put that gun away. You can't point a gun at me because I don't like to be called Charlie. Why are you stopping me? What have I done wrong? I'm just taking a walk."

Gore said, "Charlie, come here. Now!" Rudy walked over to the policemen. Anderson patted down Rudy's clothing for weapons. Gore kept the cocked pistol trained at Smythe. Anderson asked Rudy, "What's that lump in your back pocket?" Smythe answered, "That's my wallet, Pig." Gore put the gun away. The conversation continued as follows:

Gore: "What's your name, Charlie?"

Smythe: "It's not Charlie."

Anderson: "Are you married, Charlie?"

Smythe: "None of your business."

Gore: "Where do you live?"

Smythe: "270 Muffin Street."

Gore: "Let me see your draft card, Charlie."

Rudy took out his wallet and gave his draft card to Gore. Gore examined the draft card. Gore said, "So your name is Rudy Smythe?" Smythe said, "That's what the card says. Listen, why are you holding me? I mean, what's going on? I've had enough of this. Either let me go now or let me call my lawyer. Damn it, I was just taking a walk."

Gore said, "Get in the car while I call headquarters." Smythe and Anderson got into the back seat of the squad car. Gore locked the back door, got into the front seat, and placed a call to the police station. He asked whether Smythe was wanted on any charge or whether there had been any trouble in the Muffin Street area.

The police station radioed back the following message:

> Negative Gore. He's clean. No arrests. But he sure gets around. Police intelligence has a file on this guy six inches thick. We have enough pictures of this bird to paper all four walls of the police gymnasium. He has been photographed in all kinds of peace parades, anti-war rallies, and student demonstrations. You know, maybe we ought to keep an eye on this guy. He may be connected with the firebombings at the University here and who knows what he might do.

Gore answered, "If anyone spells trouble, he does." Gore told Rudy to get out of the car. He then said, "Listen, Charlie, get off the street. I don't want any trouble from you. If there is any trouble around here, you can bet you'll be seeing me."

Smythe got out of the car and went home. Rudy left his house at 10:30 a.m. the next morning and noticed a squad car parked in front of his house. Patrolman Bird was in the car. Bird shouted to Rudy, "Have a nice day, Charlie."

At 12:00 noon Rudy met his wife Mary and several friends at the student union. They drank coffee and discussed Marcuse and revolution. At 12:18 p.m. Rudy observed a uniformed city police officer photographing them at the table. Rudy walked over to the policeman and said, "What the hell are you taking pictures for?" The police officer, Sam Jones, said, "I've got my orders, Charlie. We're going to watch you." Rudy said, "Listen, Pig, I've done nothing. You can't do this." Jones said, "Just watch us, Charlie."

Rudy returned to his table and told Mary and his friends what Jones was doing. Rudy and his friends immediately left the union.

At 2:30 p.m. Smythe arrived at Bernie's Supermarket where he worked part time. A squad car was parked in front of the store. Officer Smith was in the car. As Rudy passed the car, Smith shouted to Rudy, "Hiya Charlie. Have a nice time working. But don't worry, we'll be watching you."

Bernie, Smythe's employer, noticed the squad car. Bernie talked to Officer Smith at 3:00 p.m. Bernie asked, "Aren't you supposed to be working, Smith? What are you doing here? Sleeping?" Smith said, "Na. We're just watching Rudy." Bernie said, "Rudy? Why? What's he done?" Smith said, "Can't say. You know we've had a lot of trouble with bombings lately. Well, we're just keeping an eye on Rudy." Later that afternoon Bernie fired Smythe. Bernie told Rudy, "I don't want a troublemaker working for me."

Smythe left Bernie's at 9:00 p.m. and arrived home at 9:30 p.m. A squad car was parked in front of his house. Officer Stewart was in the car. Stewart shouted to Rudy. "Hello, Charlie." Smythe went inside his house.

The next morning Rudy saw Officer Bird in a patrol car in front of Rudy's house. Smythe had asked some of his friends to meet at his house that day to discuss radical politics and culture. Smythe and his friends met every week to discuss controversial topics. Smythe's friends arrived at 11:30 a.m. They saw that Bird was taking their pictures as they entered Rudy's house. Willie Carter, a member of the discussion group asked Smythe, "Who the hell are you working for? The pigs?" Several members of the group said they would not participate in the discussions as long as the police maintained their surveillance. Everyone agreed to call off the meeting and Smythe's friends left his house.

Smythe was outraged. He contacted the Mayor of Jeffersonville, Bill Duke. Smythe asked Duke to stop the police surveillance. Duke said, "If it gets too hot for you here, fella, you can just get the hell out of town. There are just too many troublemakers like you here in Jeffersonville for me to even care about what happens to you. Besides, Chief Amory tells me they're watching you for a good reason and that's good enough for me."

Smythe's pleas to Chief of Police Wilmer Amory were equally unavailing. Amory said, "For my money you and people who think like you are the most likely suspects we have for all the bombings around here. The bombings were politically motivated. Moreover, you're probably a troublemaker and we're going to keep you from getting into trouble."

Smythe went home and saw a police car parked in front of his house. He stayed home with his wife for the rest of the night. For the following week Smythe and his wife left their house only to purchase food; they were both upset by the surveillance and wanted to avoid it.

On Tuesday, January 26, Smythe received a letter from the University. The letter stated the University would not renew his teaching assistantship for the 1971-72 academic year because of Smythe's "police record." Smythe then went to Gurgle Lawters, attorney-at-law, for advice. He informed Lawters of the facts stated above. Smythe added that his wife had suffered an emotional breakdown last year. She was still being treated as an out-patient and was taking medication under her doctor's orders. The surveillance had led her to have frequent hysterical fits and her doctor now felt she required hospitalization.

JOBS AND BUSINESS
(Alternative #1, Part I)

I. GOAL

The purpose herein is to expose high school students briefly to general aspects of jobs and business operations, and to discuss some of the basic differences that exist among the three most widely used forms of business organization. Regarding the latter, only the basic differences which are relevant to the selection of one form of business over another are considered. Because the material is basic, there will be exceptions to some of the general rules stated which are not noted. Because the material is relatively dry in nature, the instructor should keep formal legal terminology to a minimum, use colorful concrete examples from his experience if likely to stimulate interest, and steer discussion to areas in which the students voice interest. Although the topic is allotted only a portion of one session in the proposed symposium schedule, surplus material is provided in case a school or instructor desires to expand the topic.

II. COMMON FORMS

The three most widely used forms of business organization are sole proprietorship, partnership and incorporation.

A. A sole proprietorship consists of one person ownership of an unincorporated business.

B. A partnership consists of an association of two or more persons to carry on a business as co-owners and for profit.

1. It is advisable, but not necessary, for there to be a formal written agreement establishing a partnership.

2. A partnership can arise through the parties conducting themselves as a partnership, as defined in Chapter 178 of the Wisconsin Statutes, even though there has been no express agreement to create a partnership and even though the parties did not intend or even want a partnership.

C. A corporation is an artificial business entity, separate and apart from its owners, created by complying with various formal prerequisites of the law. Chapter 180 of the Wisconsin Statutes sets forth the requirements of incorporation.

1. The owners (shareholders), whether one or more, have only an indirect control over the business and affairs of the corporation,

which are supervised by a Board of Directors elected by the shareholders.

2. The day to day business of a corporation is conducted by its officers, who are elected by the Board of Directors and are subject to its supervision.

3. It should be noted, however, that in small corporations, the shareholders, directors and officers will usually be comprised of the same or nearly the same persons.

There are various other lesser used forms of business organization which ought to be mentioned in passing, such as Limited Partnerships, Joint Ventures, Cooperatives, Associations and Trusts.

III. SELECTION FACTORS

There are various factors that ought to be taken into consideration in selecting a form of business organization. Some of the most important of these factors are set forth below.

A. Formality in creating the business vehicle and the conduct of the business

1. There are no particular formalities to be accomplished as a prerequisite to the establishment of a sole proprietorship. This form of business will usually result whenever a single person starts a business without incorporating it. Furthermore, inasmuch as only a single person is involved, the formalities that must be observed in the conduct of the business are also relatively minimal. This is not to say that a sole proprietor should not have complete records of his business. Record keeping is good business for anyone, and the requirements of the tax laws and state laws relating to the employment of other persons will necessitate certain kinds of records being kept.

2. It is advisable, but not necessary, for a partnership to be based upon a formal written partnership agreement. Also, a partnership can be created without any express agreement at all. If the acts of the parties are such as to bring their business operation within the definition of a partnership in Chapter 178 of the Wisconsin Statutes, it is a partnership even if the parties did not intend or even want a partnership. The record keeping for a partnership is likely to be more demanding than in the case of a sole proprietorship. Partners must keep additional records to enable them to account to one another for the business of the partnership.

3. The corporate form of doing business is the most demanding from the standpoint of formalities. The incorporation process itself

is very formal, even to the extent that the most basic corporate document, the articles of incorporation, must be made a matter of public record in the offices of the Secretary of State and the local Register of Deeds. Once incorporated, the shareholders and directors must adopt resolutions to take any action with respect to the corporation. These resolutions are always written and may require an actual meeting of the persons involved. Also, added record keeping is necessitated by the mere fact that the corporation is a separate and independent entity from its owners.

B. Liability of the owners for business obligations and torts

1. In its purest form, the corporate entity shields the shareholders from business debts and claims of damage except to the extent of the actual investment the shareholder has made in the corporation's stock. This investment is in the form of the funds or property which the shareholder has transferred to the corporation for its shares of stock which the shareholder owns. Other assets owned by the shareholder and not transferred to the corporation are free from these obligations. However, there are exceptions to the general rule of shareholders having only a limited liability for corporate debts and other obligations, most of which need not be discussed for purposes of this symposium.

The instructor might comment, however, on some instances where the law imposes obligations upon shareholders, directors and officers of a corporation. In one or more of the foregoing positions, an individual may be liable beyond his investment in the corporation for the following: (1) violation of a fiduciary obligation to the corporation (Grognet v. Fox Valley Trucking Service, 45 Wis.2d 235); negligent or fraudulent dissipation of corporate assets (Cream City Mirror Plate Co. v. Coggeshall, 142 Wis. 651); liability for illegal dividends, improper purchase of corporate shares, failure to pay debts on liquidation and improper loans to officers (Section 180.40 of the Wisconsin Statutes); liability for employee wages up to six months (Section 180.40(6) of the Wisconsin Statutes); failure to provide workmen's compensation insurance (Section 102.28(5) of the Wisconsin Statutes); various kinds of anti-trust violations (15 U.S.C., Section 1, 13a, 15 and 24); and willful failure to withhold taxes (Sections 6672 and 6671(b) of the Internal Revenue Code). There are various other sources of such liability involving sources too numerous to detail, such as securities law violations and liability arising out of a failure to qualify to do business in another state. Mention should also be made of Wisconsin Safe Place law, Wis. Stats. Ch. 101.

2. In both the sole proprietorship and partnership form of business, the liability of the individual owners is unlimited regardless of how much or little of their assets they actually invest or use in the business. In some few areas, such as general torts and products liability, insurance against the risks will offset the unlimited liability exposure of a sole proprietor or partner.

C. Centralized management of the business

1. In most small businesses, centralized management is a fact. A sole proprietor or a few partners are going to be running the business themselves.

2. A very large business or a business with a large number of owners will usually require a centralized management. Either the business will be too large for a sole proprietor to supervise alone or the number of owners in a partnership will be too many to constitute an efficient management unit. In such situations, the corporation will usually be the ideal vehicle for delegation of the management function to a few people.

D. Continuity and free transferability of the business

Concern with these factors usually arises upon the death of an owner or when an owner wants to transfer his interest during his lifetime. Note generally that in either of these cases, a sole proprietorship or a partnership form of business can be cumbersome, and that the most effective and enduring means of providing for continuity of the business is by incorporating.

E. Tax considerations involved in selection of business form

Basic aspects could be noted, such as double taxation and fringe benefits of corporations as differentiated from sole proprietorships and partnerships.

IV. THE EMPLOYEE

Discuss generally some of the following aspects in the context of the students as current or potential employees:

1) the concept, procedure and availability of workmen's compensation (Wis. Stats. Ch.102) and unemployment compensation (Wis. Stats. Ch.108);
2) federal and Wisconsin (Wis. Stats. Ch.104) minimum wage laws;
3) recent attempts to establish 4-day work weeks;
4) advisability of having a written contract of employment; and
5) frequent availability of fringe benefits such as insurance, credit unions and retirement plans.

Discussion should concentrate on any area in which students show interest. Questions may include the necessity or advisability of joining appropriate unions. The following type of question might be posed: where a student is fired for what he feels is without justification, what recourse has he?

V. REFERENCES

George C. Seward, Basic Corporate Practice, JCCLE, ALI, ABA, 1966 ed. (His general rule advises that when in doubt, don't incorporate.)

Mario Borini, "Problems upon Incorporation of the Family Business," 25th Annual N.Y.U. Institute on Federal Taxation, 1967, p. 229, where incorporation of family businesses is urged.

CARS AND LEGAL PROBLEMS
(Alternative #1, Part II)

I. GOAL

This session is designed to expose students to certain requirements and prohibitions not ordinarily covered in instruction concerning rules of the road received in other school courses. Although this topic is allotted only a portion of one session in the proposed symposium schedule, surplus material is provided in case a school or instructor desires to expand on the topic. To reduce classroom time without sacrificing content, it is suggested that the cited statutes be xeroxed and made available to the students for examination preceding the class.

II. REQUIREMENTS

A. Licenses

Every operator of a vehicle must be licensed; penalty for the first offense is up to $100 and/or six months in jail. Wis. Stats. 343.05(1),(3)

Should an operator drive a vehicle during a period in which his license has been revoked or suspended, the penalties begin at a minimum of $50 maximum $200, and jail for a minimum of five days maximum six months. Wis. Stats. 343.44

B. Insurance

Explain generally to the class the advisability and need for having automobile insurance, and the general provisions of chapter 344 concerning financial responsibility.

III. ACCIDENTS

A. Liabilities

Explain generally to the class that an operator, and even a guest, will be liable for any negligence which results in damages to another person; personal liability may be involved once the insurance policy limits are reached. The instructor might also note that the operator may also even be liable for his negligence to guests in his own car. Refer again to Wis. Stats. 343.15(2).

B. Reports

Within ten days after an accident involving injury to or death of any person or total property damage to an apparent extent of $200 or more, the operator must file a written accident report. He must also report the accident to the police or sheriff by the quickest means of communication. Failure results in a fine of a minimum of $40 maximum $200 for the first offense, plus suspension. Wis. Stats. 346.70, 346.74, 344.08

C. Statements

Instructor should note the general inadvisability of signing statements at the request of insurance representatives or making oral statements to insurance representatives or persons involved in the accident, with such exceptions as one's own insurance company and investigating police on request. One should report the accident to his own insurer immediately, and should cooperate with their requirements.

IV. PROHIBITIONS

A. Intoxicants

Operators under the age of 21 driving a car containing intoxicating beverages with a companion under the age of 18 are subject to a penalty of a minimum of $20 maximum $400 and/or sixty days in jail. Wis. Stats. 346.93

Any person operating a vehicle under the influence of either an intoxicant or narcotic or dangerous drugs, or any person who is a habitual user of dangerous or narcotic drugs and operates a vehicle, is subject to a penalty of up to $200 and/or six months for the first offense. Wis. Stats. 346.63

B. Racing

Racing or endurance contests are subject to a penalty of a minimum of $20 maximum $400 and/or sixty days. Wis. Stats. 346.94(2) Class may also be interested in some of the other prohibitions and penalties relating to 346.94.

V. PURCHASING

A. Used Automobiles

Under the provisions of Wis. Stats. 218.01(7a), odometers cannot be altered unless they are returned to zero, and the dealer or salesman must furnish the name of the previous owner of any used car. Penalties are a minimum of $25 maximum $100 and/or ninety days.

B. New Automobiles

Note generally to the class that most large-volume automobile dealers will be content with a purchase which gives them a margin of profit of $125 to $150. Formulas and procedures for obtaining the pricing data are available in a magazine entitled FAX, which is available in most public libraries.

VI. OUTSIDE READING

Consumer Law, High School Civic Problems Series, Law in American Society Foundation, 1969, p. 19

SELECTIVE SERVICE LAW
(Alternative #2)

I. Registration

Every male citizen of the United States and every other male person who is in the United States must register with the Selective Service on his 18th birthday or within 5 days thereafter. (Selective Service Regulation Section 1611) The residence address you give at the time of registration determines the local board which will have jurisdiction over you. (Regs. Sec. 1613) That local board must then be notified by the registrant of any facts that would affect his classification, and of any changes of address, within 10 days after they occur. (Regs. Sec. 1613 and Sec. 1625.1) He should also keep personal copies of any correspondence with the Selective Service system for possible future reference.

II. Classification

A questionnaire will be mailed to the registrant after his registration, and his initial classification shall be determined solely on the basis of that and other official forms of the Selective Service system and any other written information which the registrant may have sent to the local board. (Regs. Sec. 1623.1) A registrant will be placed in class I-A unless his local board determines that a deferment under current regulations is warranted by the information in his file. (Regs. Sec. 1623.1 and 1623.2)

A. Deferments and Exemptions

There are numerous categories under the Selective Service Law into which a registrant may fall and which determine if and how soon he becomes eligible for the draft. Although a discussion of all these classifications will be impossible in the time allotted, a listing is appended for the instructor's reference. However, three groups of deferments are of particular interest to the typical new registrant -- educational, physical and conscientious objector.

1. Educational Deferments

a. High School Students

A full-time student in high school or similar institution must be deferred until he graduates, reaches age 20 or stops full-time study, whichever comes first. Such a student is classified I-S(H). (Regs. Sec. 1622.15(a))

b. Undergraduate College Students

A II-S deferment must be given an undergraduate college student if he so requests in writing. (He can use SSS form 104 provided by local boards and colleges.) This deferment is granted if he is a full-time student making satisfactory progress toward a degree and has not yet reached the age of 24. (Regs. Sec. 1622.25)

Since the II-S deferment is usually given only on a yearly basis, the student should be sure that a student certificate (SSS form 109) or similar form from his school is sent to his local board each year notifying them of his continued enrollment in good standing. If for some reason a college student is no longer eligible for a II-S deferment (he may for instance have reached the age of 24 while still in school) and he is sent an induction order while still enrolled in college, he is eligible for a I-S(C) deferment. Such a deferment will allow him to continue in school until the end of the academic year. (Regs. Sec. 1622.15)

c. Students in Nondegree Programs

Students attending junior colleges, community colleges or technical schools and not working toward a bachelor's degree are eligible for a II-A deierment. (Regs. Sec. 1622.22(B)) Like a II-S, this deferment must also be applied for in writing. The II-A deferment is also available to certain types of apprenticeships and to persons employed in a very limited number of occupations which fulfill an essential community need.

d. Graduate and Professional Students

Graduate students in medicine, dentistry, veterinary medicine, osteopathy, optometry or podiatry and also a limited number of PhD candidates are eligible for the II-S classification. (Regs. Sec. 1622.26(A), (B))

e. Suggested Discussion Topics

The original rationale behind the creation of educational deferments was the idea that the best use of the nation's manpower would be to allow students to

complete their education before drafting them. (The student deferment was viewed as beneficial to education in general.)

Should student deferments be abolished? Are they inequitable to those who cannot afford to go to college? Is the rationale behind the student deferments correct?

2. Physical Deferments

A specified list of physical handicaps will qualify a registrant for either classification as I-Y or IV-F. A Selective Service registrant classified I-Y is disqualified for service except in time of war or a congressional declaration of national emergency. A registrant classified IV-F is automatically disqualified for any service. Both classifications are usually determined by a local board medical or an armed forces physical examination. If a registrant feels that he is eligible for a medical deferment, he should submit evidence from his doctor to his local board and also present such evidence on the day of his armed forces or local board medical examination.

A complete list of the standards of medical fitness can be obtained from the Superintendent of Documents, Government Printing Office, Washington, D. C. 20402. Request army regulation 40-501, "medical service - standards of medical fitness." The price is $1.75. (Standards for IV-F classification are covered by AR40-501, Chapter 6. The standards for I-Y are covered by AR40-501, Chapter 2.)

3. Conscientious Objectors

There is no constitutional right for a conscientious objector to refrain from military service. That right is wholly statutory and is incorporated within the Selective Service Acts provisions. (50 U.S.C.A. Appendix 456(j) and the regulations thereto.) Under the Selective Service Law, the local board makes the determination as to whether or not the registrant meets the statutory specifications of a conscientious objector.

a. Criteria for Classification of Conscientious Objectors

The registrant must be opposed to war in general. Objection to a specific war, such as the Vietnam

war, is not sufficient to qualify as a conscientious objector. (Gillett v. United States and Negre v. Larson, 401 U. S. 437, March 8, 1971)

His objection must be founded on religious training and belief. However, the term "religious training and belief" as used in the law may include solely moral or ethical beliefs, even though the registrant himself may not characterize these beliefs as "religious" in the traditional sense or may expressly characterize them as not "religious." The registrant need not believe in a traditional "God" or a "Supreme Being." While no allegiance with a traditional religious sect or reliance upon a traditional religious doctrine need be shown, the registrant must demonstrate that his ethical or moral convictions were gained through training, study, contemplation or other activity, comparable in rigor and dedication to the process by which traditional religious convictions are formulated, and that his convictions are held with the strength of traditional religious convictions, and play the same role in his life. (Welsh v. U. S., 398 U. S. 333, (1970), U. S. v. Seeger, 380 U. S. 163 (1955)) The conscientious objector's position must be something other than essentially a political sociological or philosophical view or personal moral code. That is, it must be the equivalent of a religious belief and be based upon training, study and contemplation.

If the registrant's statements of his belief fulfill the statutory requirements, then the primary consideration which the local board must make is whether or not the registrant is truly sincere in his beliefs. Witmer v. United States, 348 U. S. 375 (1955)

It should also be noted that contrary to popular belief the conscientious objector need not be opposed to all forms of force. The Supreme Court has stated:

> Willingness to use force in self defense, in defense of home and family, or in defense against immediate acts of aggressive violence toward other persons in the community has not been regarded as inconsistent with a claim of conscientious objection as such. Gillett v. United States, 401 U. S. 437 (1971); see also

United States v. Purvas, 403 F2d 555, 563 (1968).

b. How Established

An individual who feels that he is a conscientious objector should apply to his local board as soon after registration as possible. He need merely request, fill out and return SSS form 150. However, he should also submit to the local board letters from individuals who know him and can attest to the fact that he indeed holds the beliefs which he claims. An individual seeking a conscientious objection deferment should consult with the draft counselor or an attorney in order to be certain that his beliefs qualify him for the exemption under the Selective Service Law and to be sure that he clearly sets forth his position to the board. Application for a conscientious objector's status should not be delayed. Applications made late in the day are naturally questioned as to their sincerity by the board. Applications made after an order to report for induction has been received need not be considered by the board. Ehlert v. United States, _____ U. S. _____ (April 21, 1971); 91 S. Ct. 1319 (1971)

c. I-O and I-A-O Distinguished

There are two types of conscientious objector classifications. The person classified I-O is opposed to both combatant and non-combatant military duty and is assigned to 2 years alternative civilian work. This work is done in hospitals and public institutions and is selected for the conscientious objector by his local board. The board will consider alternative types of work suggested by the conscientious objector, but has the express policy of assigning work which will disrupt the individual's civilian life in a manner similar to that in which service in the armed forces would have done.

A I-A-O classification is given to a conscientious objector whose beliefs exempt him from combat duty in the military, but allow him to perform non-combat tasks while a member of the armed forces.

d. Suggested Topics for Discussion

(1) Should the Selective Service Law be changed

in order to allow exemption for those who are sincerely opposed to participation in the Vietnam war on conscientious grounds?

(2) Should the present draft system be replaced by an all volunteer army?

III. Lottery System

The lottery or random selection system was enacted in 1969 and affects the order of call of all men subject to the Selective Service system from 1970 onward. Each year a separate lottery is held. All 366 possible dates of birth (month and day only) are placed into capsules which are thrown into a large drum. The dates are then reselected from the drum at random. The first date selected is assigned number 1, the second date number 2 and so on. Persons born on dates assigned low numbers are the most likely to be drafted.

Each registrant classified I-A or I-A-O has one year of primary exposure to the draft. That year begins on January 1st of the year in which such a registrant has already attained the age of 19, but has not yet reached the age of 20, and ends on December 31st of that year. For example, suppose Clarence Combat was born on July 4, 1960. He attains the age of 19 on July 4, 1979. If he is classified as I-A or I-A-O, his year of primary exposure to the draft will begin on January 1, 1980 and run until December 31, 1980. His order of call during 1980 will be determined by the random selection number assigned to his date of birth by the 1979 lottery. Supposing that in that lottery the date July 4 is the 150th date drawn. All those having numbers 1 through 149 who are in the primary exposure group during 1980 will be drafted ahead of Mr. Combat. If the military's need for men in 1980 is satisfied before the number 150 is reached, then on January 1, 1981, Clarence would be placed in a lower priority group. He would not be drafted in 1981 unless all the 366 dates were exhausted in that year and it became necessary to reach back for men who had not yet been drafted in the previous year.

The lottery system does not affect the deferment classification system. Thus, if Clarence had a II-S student deferment during 1980, he would not be drafted even though his number was reached. However, suppose Clarence graduates from college in 1982 and loses his student deferment and is reclassified I-A. He would then join the primary exposure group for 1982. His number would still be 150. (See Regs. Sec. 1631.5 and 1631.7 on lottery system generally)

IV. The Appeal Process

There are two ways in which a registrant can get his classification changed. First, if he feels that he has been incorrectly classified by his local board, he can appeal their decision. He must request an appeal before his local board within 30 days after he receives his classification. He then has the right to make a personal appearance before the board and set forth the reasons why the board should change his classification. (Regs. Sec. 1624.2) If the local board rejects his appeal, he again has 30 days in which to appeal to the state board. Whenever a registrant feels that he should appeal his classification, he should contact an attorney or a draft counselor in order to properly prepare for his appeal.

The second way in which a classification can be changed is by the filing of new information with the board. For instance, if a registrant is classified I-A but then becomes a college student, he may wish to so inform his board and seek a II-S deferment.

V. Penalties

Failure to comply with the draft laws, such as failure to register or failure to report for induction when so ordered, is punishable by a maximum penalty of 5 years in a federal penitentiary and/or a $10,000 fine.

SELECTIVE SERVICE CLASSIFICATIONS

A draft board is required by law to place a registrant in the lowest classification for which it finds him eligible. The law requires a registrant to supply his draft board with full information concerning all classifications, and notify it within 10 days of any change that might affect classification. (Thus, a man with a II-S student deferment must notify his board if he believes he is eligible for I-Y for a physical defect, or I-O because of conscientious objection, even though the board won't place him in these higher classifications until he is no longer eligible for II-S.) The classifications are listed in order below, the highest first, and are briefly defined.

Available for Service

I-A Available for military duty.

I-A-O Conscientious objector opposed to combatant duty and available for noncombatant duty only (usually Medical Corps).

I-O Conscientious objector opposed to both combatant and noncombatant military duty and available for assignment to civilian work.

NOTE: Conscientious objection (I-O or I-A-O), under the the present law, is based upon (1) religious belief, formal or personal, defined as a belief or value which is central to the individual's life, including (2) rejection of participation in "war in any form"; and (3) evidence that the applicant attempts to live in a manner consistent with his beliefs.

Deferred or Exempt

I-S Student deferments which must be given to: (a) high school student under 20 years of age: I-S(H); (b) full-time college student who receives an induction order during the school term: I-S(C) is not renewable and may be received only once. Not available to most graduate students.

I-Y Medically disqualified for service except in time of war or Congressional declaration of national emergency; usually determined by armed forces physical examination, at which registrant should submit evidence from his doctor.

II-A (1) Apprentices and students in full-time junior college, business and vocational courses.
(2) If requested before April 23, 1970, deferred for employment (other than agriculture).

II-C If requested before April 23, 1970, deferred for essential agricultural employment.

II-S Deferred for full-time college study. (a) Must be given to an undergraduate if: (1) he has requested II-S by letter or on Form #104; (2) his school has sent Student Certificate (Form #109) each year; (3) he is receiving credit for his courses toward a degree; (4) he is taking a full-time course load (as defined by his school); (5) he is making satisfactory progress since July, 1967 (e.g., has finished 25% of credits needed for a 4-year degree by the end of his first academic year, 50% by the end of the second, etc.); and (6) he has not reached his 24th birthday. II-S is granted for one 12-month academic year at a time. (b) Must be given to students of medicine, dentistry, veterinary medicine, osteopathy, and optometry. (c) May be given to

full-time graduate students in other fields only if in their fifth year of continuous study toward a doctoral degree in fall 1970.

I-D In reserves, including National Guard and advanced Reserve Officers Training Corps (ROTC).

III-A Deferred because of dependents. (a) Must be given if registrant submitted information before April 23, 1970, that he was living with a child (or its pregnant mother-to-be); but not available to those who apply later or who requested and received II-S student deferment since June 30, 1967. (b) May be given when induction would cause "extreme hardship" to dependents; those not eligible for fatherhood III-A may qualify.

IV-B Certain judges and elected officials of state or federal government, deferred by law.

IV-C Certain foreign citizens (aliens) not on immigration visas, or on immigration visas but living outside the United States.

IV-D Ministers of religion; divinity students and college students pre-enrolled in seminaries, under sponsorship of a church or denomination.

IV-F Medically disqualified for any service; usually determined by local board medical advisor or an armed forces physical examination, to which registrant should submit evidence from his doctor.

IV-A Completed military duty; or is the sole surviving son in a family of which father, brother, or sister died as a result of military service.

V-A Over age: over 26 for those never deferred; over 35 for those with "extended liability," i.e., who have ever held any deferment.

Performing Service

I-W Conscientious objector (I-O) performing civilian alternative service. I-W (Rel.): conscientious objector who has completed civilian work, but who is not yet over age.

I-C Member of the active armed forces, or commissioned officer in Public Health Service or Environmental Science Services Administration.

NOTES:

1. No classification is permanent; all may be reviewed and, if evidence warrants, be changed upwards or downwards. Regulations are subject to change at any time, and the President has asked Congress for changes that would end most college and vocational training deferments.
2. The classification decisions of local boards are not final--a registrant has the right to personal appearance and state appeal.

CONCLUSION

I. GOAL

The final session of the course is left open, to accommodate the desires of the particular instructor, class and school involved. This session could be used for a mock trial or other activity designed as a climax for the symposium. It may be utilized to cover points which were missed earlier in the symposium due to time requirements, or to expand on areas which were of particular interest to the class. The session might be used for purposes of outside activity, such as observing an actual trial; touring the courthouse, followed by a meeting in chambers with one of the local judges who would be willing to entertain questions from the students; or touring the police station, including the jail facilities and interrogation rooms, followed by a meeting with a member of the police force who would be willing to entertain questions from the students. The session can also be used to entertain any criticisms and evaluations of the course.

II. GENERAL THEMES

The session might in addition be used, in whole or in part, to refer to the following basic goals of the course.

A. To point out to the students some of the aspects of their lives which upon graduation will involve legal questions and which have historically been troublesome to young people, such as consumer problems and landlord-tenant relationships.

B. To familiarize students better with the many rights, and the limitations of those rights, which are extended to them under our system of laws.

C. To instill in the students a better understanding of our legal system in general. The course has examined both areas in which the system has failed grossly, and areas in which it has worked well in full implementation of the original goals of the founders. By studying how the results occurred in each case, it is hoped that upon graduation the students will both understand the system and be capable of working towards its improvement.

D. To provide that whenever a future controversial legal situation should occur, the students will have the ability to realize the extent of factors involving both sides of the question, and to realize how the result was reached and how it might have been made to conclude differently. It is hoped that the symposium will aid students to become knowledgeable and confident concerning the legal system, and consequently that it will tend to discourage both the process of polarization with respect to attitudes toward the law, as well as circumvention of the legal system.

NOTES